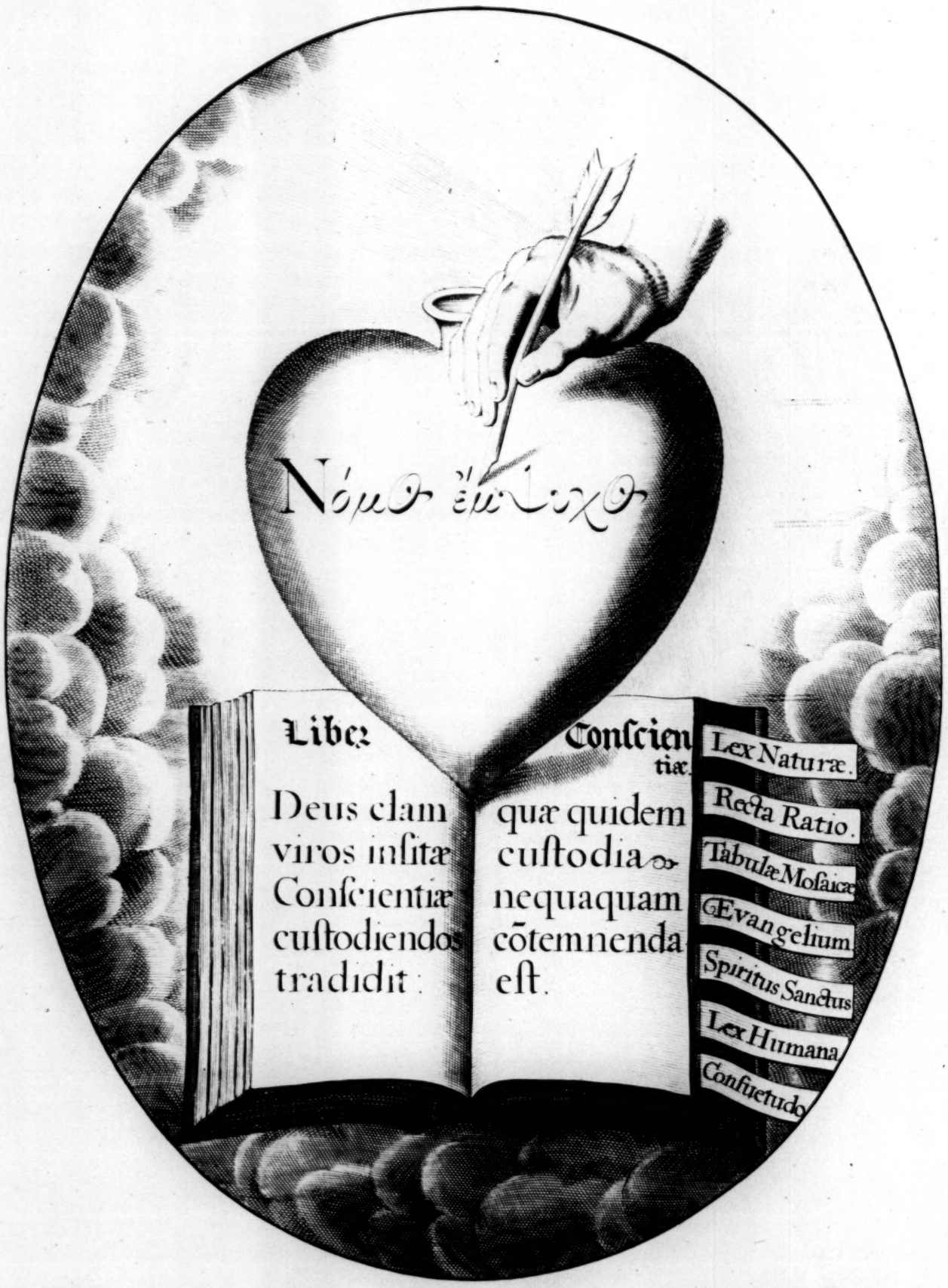
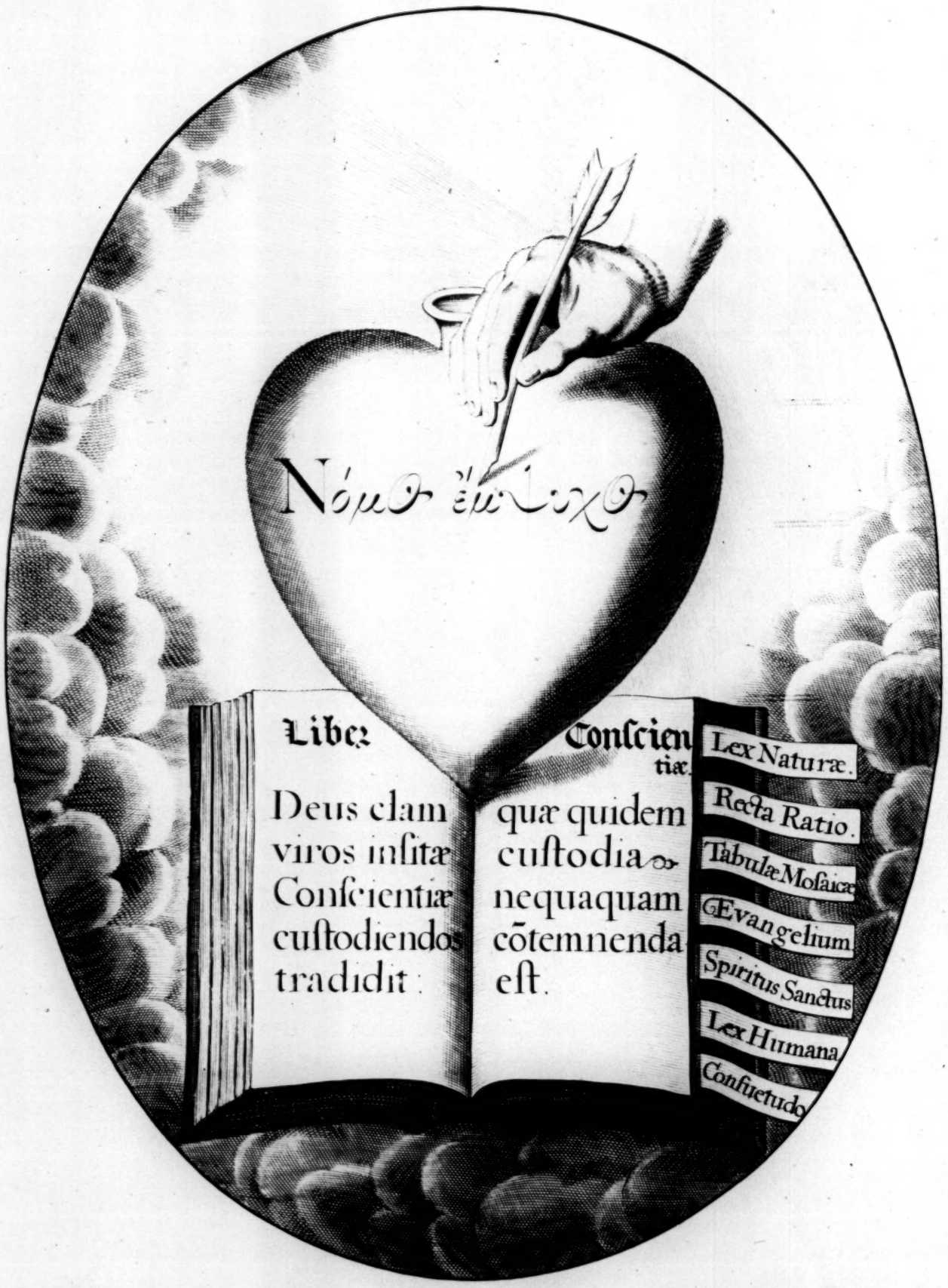


DUCTOR DUBITANTIUM

or

The RULE of CONSCIENCE

In lumine tuo, Domine, videbimus lumen.



DUCTOR DUBITANTIUM

or

The RULE of CONSCIENCE

In lumine tuo, Domine, videbimus lumen.

F. HAYMAN nozayo Cat. page 13

DUCTOR DUBITANTIUM,

OR

THE RULE

OF

CONSCIENCE

In all her generall measures;

Serving as a great Instrument for the determination of

CASES of CONSCIENCE.

In Four Books.

By JEREMY TAYLOR, D.D.

Prov. 14. 8.

Σοφία πανύργων ἐπιγνώσεται τὰς ὁδοὺς αὐτῶν· παιδία δὲ ἀφρόνων ἐν πλάνῃ.

LONDON,
Printed by *James Flesher*, for *Richard Royston* at the Angel in Ivy-lane, 1660.

TO

THE MOST SACRED MAJESTY

OF

CHARLES II.

KING of GREAT BRITAINE,

FRANCE and IRELAND,

Defender of the Faith, &c.

Great Sir,

THE *circles of the Divine Providence turn themſelves upon the affairs of the world ſo, that every ſpondel of the wheels may mark out thoſe Vertues which we are then to exerciſe; and every new event in the Oeconomy of God is God's finger to point out to us by what inſtances he will be ſerved. We have been ſorely ſmitten and for a long time; for* (*that I may uſe the words of the Prophet*) Alas, for that day was great, ſo that none was like it, it was even the time of Jacob's trouble; *and then, Faith and Patience, and all the paſſive Graces of Religion were in their own ſeaſon. But ſince God hath left off to ſmite us with an iron rod, and hath once more ſaid unto theſe Nations,* They ſhall ſerve the Jer. 30. 7, 8.

Lord their God, and David their King whom I have raiſed up unto them; *Now our duty ſtands on the Sunny ſide; it is our work to rejoice in* God *and in* God's Anointed, *and to be glad, and worthily to accept of our Proſperity is all our buſineſs: for ſo good a God we ſerve, that he hath made it our Duty to be happy, and we cannot pleaſe him unleſs we be infinitely pleaſed our ſelves. It was impoſſible to live without our King; but as Slaves live, that is, ſuch who are civilly dead, and perſons condemn'd to metalls: we lived to the luſts and inſolency of others, but not at all to our ſelves, to our own Civil or Religious comforts. But now our joys are mere and unmixt; for that we may doe our duty and have our reward at once, God hath ſent your Majeſty amongſt us, that we may feel the pleaſures of Obedience, and reap the fruits of that Government which God loves and uſes, which He hath conſtituted and adorned, which He hath reſtored to us by a conjugation of miracles, by the work of his hand and the light of his countenance, by changing the hearts of Men, and ſcattering the people that delight in War, by infatuating their Counſels and breaking their Cords aſunder; that is, which He himſelf hath wrought amongſt us by himſelf alone, and therefore will bleſs and will never interrupt: only we muſt be carefull never to provoke him any more by our Unthankfulneſs and infidel Apoſtaſie.*

But now, Great Sir, be pleas'd to give me leave in the throngs of thoſe that rejoice to ſee the goodneſs of God to his ſervant Job, *in imitation of them who preſented him with, every man, an ear-ring of Gold, and a piece of Silver, or a Lambe*, to bring alſo my Offering, the ſignification of my joy. For though it be but two Books which like*

* קשיטה

like the Widows two mites make up but a contempti-ble Summe; yet becauſe it is all I have, your Majeſty may be pleaſed to accept: and ſo much the rather, becauſe it is alſo an expreſſion of that part of the duty of my Calling which hath fallen to my ſhare. For your Majeſty, like the King in the Goſpel, hath been in a far Country, and ſome of your Citizens ſent after you, and ſaid, **Nolumus hunc regnare**; Luke 19. 14. *but God hath cauſed you to return and reign: and if your Majeſty ſhould by that example call us to render an account of our Talents, I can only ſay, that amongſt thoſe many Excellent perſons who have greatly improv'd theirs, I was willing to negotiate and to labour. What fruit will from hence accrue to Souls is wholly in the hands of God: but this ſemination and culture was much wanting in the Reformed Churches. For though in all things elſe the Goodneſs of God hath made us to abound, and our Cup to run over; yet our labours have been hitherto unimploied in the deſcription of the Rules of Conſcience and* **Caſuiſtical Theology**. *In which becauſe I have now made ſome attempt, if the production be not unworthy, I am ſure it is not improper to lay it at the feet of your Majeſty. For your Majeſty being by God appointed* **Cuſtos utriuſque Tabulæ**, *ſince like* **Moſes** *you are from God deſcended to us with the two Tables of the Law in your hand, and that you will beſt govern by the arguments and compulſory of Conſcience, and this alone is the greateſt firmament of Obedience; whatſoever can be the meaſure of Conſcience* **eſt res Fiſci**, *is part of your own propriety, and enters into your Exchequer.*

Be pleaſed therefore, Gracious Sir, to accept this inſtance of my duty to God, to your Majeſty, and to your

Great

Great Charge, the Church of England. There are in it many things intended for the ſervice, but nothing to diſſerve any of theſe great intereſts. Thoſe Caſes that concern the Power and Offices of Eccleſiaſtical Superiors *and* Supreme, *were (though in another manner) long ſince done by the incomparable Mr* Hooker, *and the learned Archbiſhop of* Spalato: *but their labours were unhappily loſt, and never ſaw the light. And though I cannot attain to the ſtrength of theſe Champions of* David *and Guardians of the Temple; yet ſince their portion of work is fallen into my hand, I have heartily endeavoured to ſupply that loſs; though with no other event, but as charitable paſſengers by their* little, *but well-meaning, alms repair the breaches of his fortune who was* greatly *undone by War or Fire. But therefore I humbly beg your Majeſties pardon in all things where my weakneſſes make me to deſpair of your more Gracious acceptance: and here I am therefore to be confident, becauſe your Mercy is, as your Majeſty, this day in her exaltation, and is felt by all your Subjects; and therefore humbly to be hoped for by*

Lib. 7, 8. Of Eccle. Polity.
Lib. 8. de rep. Eccleſ.

Great Sir,

Your Majeſties

moſt dutifull and moſt
obedient Subject

Jeremy Taylor.

THE PREFACE.

THE Reformation of Religion in the Weſtern Churches hath been ſo violently, ſo laboriouſly, ſo univerſally oppos'd by Evil Spirits and Evil Men, by willfulneſs and ignorance, by prejudice and intereſt, by error and partiality; and it ſelf alſo hath been done ſo imperfectly in ſome places, and ſo unskilfully in ſome others, becauſe the thick and long-incumbent darkneſs had made it impoſſible to behold the whole Light in all its ſplendour; that it was found to be work enough for the Miniſters of Religion to convince the Gainſayers, to oppoſe their witty arts by the advantageous repreſentment of wiſe truths, ſo to keep the people from their temptations. But ſince there were not found many able to doe this but ſuch which had other cures to attend, the conduct of ſouls in their publick and private charges, and the conſequent neceſſity of preaching and catechiſing, viſiting the ſick, and their publick daily offices; it was the leſs wonder that in the Reformed Churches there hath been ſo great a ſcarcity of Books of Caſes of Conſcience: though it is not to be denied but the careleſs and needleſs neglect of receiving private Confeſſions hath been too great a cauſe of our not providing materials apt for ſo pious and uſeful a miniſtration. But beſides this, it is certain that there was a neceſſity of labouring to other purpoſes then formerly: and this neceſſity was preſent and urgent; and the hearts and heads of men ran to quench that fire, & left *the government of the houſe* more looſely, till they could diſcern whether the houſe would be burnt or no by the flames of contention which then brake out: only *this duty* was ſupplied by excellent preachings, by private conferences, by admonitions and anſwers given when ſome more pious and religious perſons came to Confeſſions, and as they were upon particular occaſions requir'd and invited. But for any publick proviſions of books of Caſuiſtical Theology, we were almoſt wholly unprovided, and, like the children of *Iſrael* in the days of *Saul* and *Jonathan*, we were forc'd to go down to the forges of the *Philiſtims* to ſharpen every man his Share and his Coulter, his Axe and his Mattock. We had

Swords and Spears of our own, enough for defence, and more then enough for diſputation: but in this more neceſſary part of the Conduct of Conſciences we did receive our anſwers from abroad, till we found that our old needs were ſometimes very ill ſupplied, and new neceſſities did every day ariſe.

Some of the Lutherans have indeed done ſomething in this kind which is well; *Balduinus*, *Bidenbachius*, *Dedekanus*, *Konig*, and the Abbreviator of *Gerard*: Some eſſays alſo have been made by others; *Alſtedius*, *Ameſius*, *Perkins*, and the late Eloquent and Reverend Biſhop of *Norwich*. But yet our needs remain; and we cannot be well ſupplied out of the Roman ſtore-houſes: for though *there* the ſtaple is, and very many excellent things expos'd to view; yet we have found the Merchants to be deceivers, and the wares too often falſified.

For 1. if we conſider what heaps of prodigious propoſitions and rules of Conſcience their Doctors have given us, we ſhall ſoon perceive that there are ſo many boxes of poiſon in their Repoſitories under the ſame paintings and ſpecious titles, that as it will be impoſſible for *every man* to diſtinguiſh their miniſteries of health from the methods of death; ſo it will be unſafe for *any man* to venture indiſcriminately. For who can ſafely truſt that guide that teaches him, [" [a]That it is no deadly ſin to ſteal, or privately " againſt his will and without his knowledge to take a thing from " him who is ready to give it if he were ask'd, but will not endure " to have it taken without asking; That it is no theft * privately to take a thing that is not great from our Father; [b] That *he* " who ſees an innocent puniſh'd for what *himſelf* hath done, he in " the mean time who did it, holding his peace, is not bound to " reſtitution; [c]That he who falls into fornication, if he goes to " confeſſion, may the ſame day in which he did fornicate receive " the Communion; That Communion is Manducation, and " therefore requires not attention; That he who being in deadly " ſin receives the H. Communion commits but one ſin, viz. that " againſt the dignity of the Sacrament; and that the omiſſion of " confeſſion is no diſtinct ſin, meaning, amongſt them who be- " lieve confeſſion to be of Divine inſtitution?] As bad or worſe are thoſe affirmatives and doctrines of repentance. [A dying man " is not tied to be contrite for his ſins; but confeſſion and attriti- " on are ſufficient:] and that we may know what is meant by *attrition*, we are told [" *it is a ſorrow for temporal evil, diſgrace or loſs of* " *health, ſent by God as a puniſhment, or feared to be ſent*;] this alone is enough for Salvation, if the dying man do but confeſs to the Prieſt,

a Eman. Sa. aphor. v. Furtum.

* Prov. 28. 24.

b Idem v. Reſtitutio.

c Diana de Euchar. in compend. n. 30.

n. 31.

n. 32.

Idem de pœnit. n. 3. num. 7.

num. 11, & 17, & 18.

Prieſt, though he have liv'd wickedly all his life-time. And that we need not think the matter of confeſsion to be too great a burden, we are told, [" He that examines his Conſcience before " confeſsion, ſins if he be too diligent and carefull.] But as for " the precept of having a contrite and a broken heart [It binds " not but in the article or danger of death: nor then, but when " we cannot have the Sacrament of penance.] To theſe may be added thoſe contradictions of ſeverity for the ſecuring of a holy life: that [" If a man purpoſe at the preſent to ſin no more, " though at the ſame time he believes he ſhall ſin again, (that is, " that he will break his purpoſe,) yet that purpoſe is good enough: " That it is not very certain whether he that hath *attrition* does re- " ceive grace, though he does not formally reſolve to ſin no more:] meaning, that it is probable, that it is not neceſſary to make any ſuch reſolution of leaving their ſin; they are not certain it is ſo, nor certain that it is otherwiſe; that is, they find no Commandment for theſe things: It may be they are counſell'd and advis'd in Scripture, but that is no great matter; for [" It is no ſin " not to correſpond with the Divine inſpirations exhorting us to " Counſels.] Adde to theſe, that [" To detract from our Neigh- " bours fame before a conſciencious, ſilent and a good Man, is no " deadly ſin: To diſpenſe with our vows in a year of Jubile is valid, " though the condition of obtaining that Jubilee be not perform- ed.] Thus men amongſt them have leave to ſin, and they may live in it as long as their life laſts without repentance; and that repentance in the ſum of affairs is nothing but to call to the Prieſt to abſolve them; provided you be ſorrowfull for the evil you feel or fear God will ſend on you: but contrition, or ſorrow proceeding from the love of God is not at all neceſſary; [" neither is " it neceſſary that our ſorrow be thought to be contrition; nei- " ther is it neceſſary that attrition ſhould goe before confeſsion, " but will ſerve if it be ſome time after; and if you confeſs none " but venial ſins, it is ſufficient if you be ſorrowfull for one of " them; and the caſe is the ſame for mortal ſins formerly con- " feſſed.] But I am aſhamed of this heap of ſad ſtories: If I ſhould amaſs together what themſelves have collected in their books, it would look like a libel: but who is pleaſed with variety of ſuch ſores may enter into the Hoſpitals themſelves, and walk and look til he be weary.

num. 18.

num. 19.

Id. Verb. Detractio. num. 5.

Diſpenſatio. num. 11.

Concil. Trid. ſeſſ. 14. cap. 4.

Dian. Compend. de pœnit. Sacram. n. 8.

2. But not only with the evil matter of their propoſitions; but we have reaſon to be offended with the ſtrange manner of their anſwerings. I ſhall not need to inſtance in that kind of ar-

gument which is but too frequent among thoſe who prevail more by their authority then their reaſon, of proving propoſitions by ſimilitudes and analogies. I remember that *Gregory Sayr* ſaies that all the Precepts of the Moral Law are to be reduc'd to the Decalogue; becauſe as all natural things are reduc'd to ten Prædiments, ſo it is expedient that all kinds of vertues & vice be reduc'd to the ten Commandments. And *Beſſæus* infers ſeven Sacraments from the number of the Planets, and the ſeven ears of full corn in Egypt, & ſeven water-pots changed into wine (though there were but ſix,) becauſe as the wine fill'd *ſix water-pots*, ſo the Sacrament of the Euchariſt fills the other ſix, and it ſelf makes the ſeventh; and that therefore peradventure the Sacraments are called *Veſſels of grace*. But this I look upon as a want of better arguments in a weak cauſe, manag'd by careleſs and confident perſons; and note it only as a fault, that the Guides of Conſciences ſhould ſpeak many things when they can prove but few.

Clavis Regia, l. 4. c. 2. n. 5.

3. That which I ſuppoſe to be of greateſt Conſideration is, that the Caſuiſts of the Roman Church take theſe things for reſolution and anſwer to queſtions of Conſcience which are ſpoken by an authority that is not ſufficient; and they admit of Canons, and the Epiſtles of Popes for authentick warranties, which are ſuſpicious whether ever they were written by them to whoſe authority only they do pretend; and they quote ſayings of the old Doctors, which are contradicted by others of equal learning and reputation, and all cited in their own Canon Law; and have not any ſufficient means to aſcertain themſelves what is binding in very many caſes argued in their Canons, and Decretal epiſtles, and Bulls of Popes. Nay they muſt needs be at a loſs in their conduct of Conſciences, eſpecially in all inquiries and articles of faith, when they chuſe ſuch foundations, which themſelves know to be weak and tottering; and yet lay the greateſt load upon ſuch foundations, and tie the Conſcience with the hardeſt ligature, where it is certain they can give no ſecurity. For it is not agreed in the Church of *Rome*, neither can they tell upon whoſe authority they may finally rely: *they cannot tell who is the viſible Head of the Church*: for they are not ſure the Pope is; becauſe a Council may be ſuperior to him, and whether it be or no it is not reſolved: And therefore either they muſt change their Principle, and rely only upon Scriptures and right Reaſon and Univerſal Teſtimonies, or give no anſwer to the Conſcience in very many caſes of the greateſt concernment; for by all other meaſures their queſtions are indeterminable. But the authority of man

they

they make to be their foundation: and yet if their allegations were allowed to be good argument, it would ſerve them but to very few purpoſes, ſince the Doctors, whoſe affirmative is the deciſion of the Caſe, are ſo infinitely divided.

4. This to me, and to very many wiſe men, looks like a very great Objection: but I find that they who are moſt concerned in it account it none; For the Roman Caſuiſts profeſs it, and yet do not ſuppoſe that the Conſequent of this ſhould be, that *the caſe is difficult*, and *the men not to be relied upon*, and *the Conſcience to be otherwiſe informed*, and *that we ought to walk the more warily*, but therefore *the Conſcience is at liberty*, and *the queſtion in order to practice hath no difficulty*; *hard* in the *caſe*, but *eaſie* in the *action*; for by this means they entertain all intereſts, and comply with all perſwaſions, and ſend none away Unſatisfied. For Uncertain anſwers make with them no Uncertain reſolution; for they teach us, that in ſuch caſes we may follow either part: and therefore they ſtudiouſly keep up this Academical or rather Sceptick Theology, *Alii aiunt, alii negant; utrumque probabile.* And upon this account, although with greateſt ſeverity they bind on mens perſwaſions the doctrines of meats and carnal ordinances, yet they have left them looſe enough when it comes to the Conſcience, ſo looſe that the precept is become ridiculous: for what can it be otherwiſe, when they teach, that "the *Faſt* is not broken by drinking of water or "wine, nay though we eate ſomething that our drink may not "hurt us; nor the uſual collation at night if it be taken in the "morning; nor if the Butler or the Cook lick his fingers; nor if "we eat egs or milk-meats, ſo it be not in the holy time of Lent; "nor if after dinner awhile you eate ſomething at the entreaty "of a friend; nor if you upon a reaſonable cauſe eate before "your time? in all theſe caſes you eat and faſt at the ſame time. All theſe things are derivatives from the contrary opinions of ſome eaſy, gentle Doctors; and the effect of this ſtratagem is ſeen in things of greater conſequence. For [*We are free from our vow, or from a Commandement, if it be a probable opinion of the Doctors that we are free*;] and [it is probable, if it be the opinion of one grave Doctor:] That is, in effect, plainly, *If it be probable* [in the doctrine,] *it is certain* [in practice;] and it is probable if any one of their Doctors ſays it.

Sa aphor. verb. Jejun. n. 11.

ibid. n. 8.

idem verb. Dubium.

5. And the miſchief of this is further yet diſcernible, if we conſider that they determine *their greateſt and moſt Myſterious caſes* oftentimes by no other argument but the ſaying of ſome few of their Writers. I ſhall give but one inſtance of it; but it ſhall be

ſomething remarkable. The queſtion was, *Whether the Pope can diſpenſe in the law of God?* The inquiry is not concerning a diſh of whey, but of a conſiderable affair; upon which the right or the wrong of many thouſand Conſciences amongſt them do depend. It is anſwered [" That one opinion of the Catholicks " ſays, that the Pope can diſpenſe in all things of the Law of God, " excepting the articles of faith.] The proof is this, So *Panormi-* " *tan* ſpeaks, *in cap. propoſuit, de conceſs. præbend. n.* 20. citing *Inno-* " *centius in cap. cum ad Monaſterium, de ſtatu Monachorum*; where he " ſaies, that without cauſe the Pope cannot diſpenſe in things of " Divine right; intimating that with cauſe he may. And the " ſame is the opinion of *Felinus in cap. Quæ in Eccleſ. de conſt.* " *n.* 19, *&* 20. where amongſt other things he ſaith, that the Pope " when he hath cauſe can change the uſual form of baptiſme, " and make it lawfull to baptize in the Name of the Trinity, " which he reports out of *Innocentius cap.* 1. *de baptiſ. in fine num.* " 11. Yea the ſame *Felinus* is bold to affirm *in cap.* 1. *de conſt. n.* 23. " that the Pope with one word can create a Prieſt, without any " other ſolemnity, ſaying, Be thou a Prieſt; which he reports out " of *Innocentius in cap.* 1. *Sacra Unct.* The ſame *Felinus* adds further " that the Pope with his word alone can make a Biſhop; and he " cites *Angelus in l.* 2. *C. de crim. Sacrilegii*; *& in l.* 1. *C. de Sententiam* " *paſsis.* The ſame ſentence is held by *Decius, conſil.* 112. *n* 3. *in fine*; " *& in dict. cap. Quæ in Eccleſ. n.* 25. *& ſeq. aliàs n.* 44, *&* 45. *in Novis.* " *Allegantur etiam alii Juriſtæ in cap.* 2. *de tranſlat. Epiſcopi*; *& in l.* " *Manumiſsiones. ff. de juſt. & jure*; *& in l.* 2. *C. de ſervit.* &c.

Suarez. lib. 10. de leg. cap. 6. n. 3.

Here is a rare way of probation: for theſe allegations are not only a teſtimonial that theſe Catholick authors are of that opinion; but it is intended to repreſent, that this opinion is not againſt the Catholick faith; that Popes and great Lawyers are of it; and therefore that it is ſafe, & it may be followed, or be let alone: but yet this is ſufficient to determine the doubting Conſcience of a ſubject, or to be propounded to him as that on which he may with ſecurity and indemnity rely. The thing is affirm'd by *Felinus*, and for this he quotes *Innocentius*; and the ſame is the opinion of *Decius*, and for this opinion divers other Lawyers are alleged. Now when this or the like happens to be in a queſtion of ſo great Concernment as this, it is ſuch a dry ſtory, ſuch an improbable proof, ſo unſatisfying an anſwer to the Conſcience, that the great determination of all thoſe queſtions and practices which can depend upon ſo Univerſall an article as this, and a warranty to doe actions which their adverſaries ſay are abhorrent from the

law

law of Nature and common honeſty, ſhall in their finall reſort reſt upon the ſaying of one or two perſons, who having boldly ſpoken a fooliſh thing, have paſſed without condemnation by thoſe Superiors for whoſe intereſt they have been bold to tell ſo great a lie.

In Concluſion, the effect of theſe Uncertain principles and Unſteady Conduct of queſtions is this; that though by violence and force they have conſtrain'd and thruſt their Churches into an Union of faith, like beaſts into a pound, yet they have made their caſes of Conſcience and the actions of their lives Unſtable as the face of the Waters, and Unmeaſurable as the dimenſions of the Moon: by which means their Confeſſors ſhall be enabled to anſwer according to every mans humor, and no man ſhall depart ſad from their Penitential chairs, and themſelves ſhall take or give leave to any thing: concerning which I refer the Reader to the books and letters written by their parties of *Port-royal*, and to their own weak anſwers and vindications.

If I were willing by accuſing others to get reputation to my own, or the Undertakings of any of our perſwaſion or communion, I could give very many inſtances of their Unjuſtice and partialities in determining matters and queſtions of juſtice which concern the Church and their Eccleſiaſtical perſons; as if what was juſt amongſt the reprobates of the laity were hard meaſure if done to an Eccleſiaſtick, and that there were two ſorts of juſtice, the one for Seculars & the other for Church-men; of which their own books * give but too many inſtances. I could alſo remark that the Monks and Friers are *iniquiores in Matrimonium*, and make inquiries into Matrimonial cauſes with an impure curioſity, and make anſwers ſometimes with ſpite and envy, ſometimes with licentiouſneſſe; that their diſtinction of Sins *Mortal and Venial* hath intricated and confounded almoſt all the Certainty & anſwers of Moral Theology: but nothing of this is fitted to my intention, which is only to make it evident that it was neceſſary that Caſes of Conſcience ſhould be written over anew, and eſtabliſhed upon better principles, and proceed in more ſober and ſatisfying methods: nothing being more requiſite then that we ſhould all *be inſtructed, and throughly prepared to every good work*; that we ſhould *have a conſcience void of offence both towards God and towards man*; that we ſhould be able *to ſeparate the vile from the precious*, and know what to chuſe and what to avoid; that *we may have our ſenſes exerciſed to diſcern between good and evil*, that we may *not call good evil, or evil good*. For ſince obedience is the love

* Vide Summas Caſ. Conſc. in verbis, Immunitas. Eccleſia. Hoſpitale. Privilegium. Clericus. Monaſterium. &c.

of God, and to doe well is the life of religion, and the end of faith is the death of ſin and the life of righteouſneſſe; nothing is more neceſſary then that we be rightly informed in all morall notices; becauſe in theſe things an Error leads on to evil actions, to the choice of ſin, and the expreſſe diſpleaſure of God; otherwiſe then it happens in ſpeculation and ineffective notices and ſchoole-queſtions.

And indeed upon this conſideration I was alwaies confident, that though the queſtions of the Schoole were nice and ſubtle, difficult and very often good for nothing; yet that in *Moral Theology* I ſhould have found ſo perfect an accord, ſo eaſie determination of queſtions, that it would have been harder to find out queſtions then anſwers; and the great difficulty in books of this ſubject would be to put the great number of inquiries into order and method. I was not deceived in the ground & reaſon of my conjecture; becauſe I knew that *in promptu & facili eſt æternitas*, God had made the way to heaven plain and ſimple, and what was neceſſary did ly open, and the lines of duty were to be read by every eye, or heard and learn'd by all underſtandings; and therefore it is certain that all practical truths are to be found out without much contention and diſpute, becauſe Juſtice and obedience to God in all morall converſation is Natural to us, juſt as Logick and diſcourſe is. But when I came to look a little nearer, I found that Men were willing enough to be tied up to believe the Unactive propoſitions of the Doctors, but would keep a liberty of pleaſing themſelves in matters of life and converſation: in the former they would eaſily be govern'd by leading Men; but in the latter they would not obey God himſelf, and without great regret would not be confin'd to ſtrictneſſe and ſeverity in their Caſes of Conſcience. Some would; but many would not. They that would, gave laws unto themſelves, and they could eaſily be Governed; but they that would not, were ready to trample upon their yoke, if it were made gentle and eaſie for their neck. But this was the leaſt part of the evil.

For beſides this, Moral Theology was made a trade for the houſe, and an art of the Schools: and as nothing is more eaſie then Natural Logick, and yet nothing harder then Sophiſtical, ſo it is in Moral Theology; what God had made plain, Men have intricated; and *the eaſie Commandement* is wrapped up in *uneaſie learning*; and by the new methods, a Simple and Uncrafty Man cannot be *wiſe unto ſalvation*; which is but ſmall comfort to him that ſtands in the place of the Idiot and Unlearned. Sometimes

a ſevere Commandement is expounded by the ſenſe of eaſe and liberty, and the liberty is eſtabliſhed in Rule; but becauſe the Rule is not true in ſome hundreds of caſes, a conſcientious Man does not know how to make uſe of it: and if the Commandement be kept cloſe to the ſenſe of ſtrictneſſe and ſeverity, there are ſo many outlets and eſcapes found out, that few men think themſelves obliged. * Thus in the Rule [*Spoliatum ante omnia reſtituendum*] which is an excellent meaſure of Conſcience in many caſes, and certainly can have no direct abatement in the duty, and the party obliged can only be relieved by equity in the manner of doing it; yet of this plain and eaſie Rule, *Gabrielius* brings no leſſe then threeſcore and ten limitations: and to make all queſtions of that Nature and the Rule of Conſcience infinite and indeterminable, *Menochius* hath ſeven hundred ninety and eight queſtions concerning *Poſſeſſion*; and *who is ſufficient for theſe things?* * There is a Rule amongſt the Lawyers which very much relates to the Conſcience of thoſe men who are engaged in ſuits and ſentences of Law in all Countries which are rul'd by the Civil law, *In quolibet actu requiritur citatio.* Of this Rule *Porcius* brings an hundred and ſixteen ampliations, and an hundred and four and twenty limitations. *Maranta* enumerates forty caſes in which [A Negative ought to be proved:] and *Socinus* ſets down eight hundred and two fallencies (that's the word of the law) concerning the conteſtation of ſuits and actions at law. Many more might be reckoned even in the interpreters of the Civil law, and in the meaſures we derive from thence. But if any man thinks it better in the Canon law, which is ſuppoſed to be as great a rule of our Conſcience *in the matter of Religion* as the other is of *Juſtice*; I ſhall only ſay, that the very title of the Canon law was *Concordantia Diſcordantiarum*, a tying of contradictions together in one ſtring: and when you begin to look into the interpreters of the *Decretum*, which is the beſt part of the Canon law, *Simoncellus* tells us that the word *Decretum* hath five and twenty ſignifications. So that there is a wood before your doores, and a labyrinth within the wood, and locks and barrs to every door within that labyrinth; and after all we are like to meet with Unskilfull guides; and yet of all things in the world, in theſe things an error is the moſt intolerable.

Tract. de Decretis.

But thus the Enemy of Mankind hath prevailed upon us while we were earneſt in diſputations about things leſs concerning: Then he was watchfull and buſie to interweave evil and uncertain principles into our Moral inſtitutions, to intangle what was plain,

plain, to divide what was ſimple, to make an art of what was written in the tables of our hearts with the finger of God. When a Gentleman was commending Dr. *Fiſher* Biſhop of *Rocheſter* his great pains in the confutation of *Luther*'s books, the wiſe Prelate ſaid heartily, that he wiſh'd he had ſpent all that time in prayer and meditation which he threw away upon ſuch uſeleſs wranglings. For that was the wiſdom of the Ancients. *Antiqua Sapientia nihil aliud quam facienda & vitanda præcepit: Et tunc meliores erant viri. Poſtquam docti prodierunt, boni deſunt. Simplex enim illa & aperta virtus in obſcuram & ſolertem ſcientiam verſa eſt; docemurque diſputare, non vivere.* Our fore-Fathers taught their children what to do and what to avoid; and then Men were better. But when Men did ſtrive to become learned, they did not care ſo much to become good; they then were taught to diſpute rather then to live. To this purpoſe I underſtand that excellent ſaying of Solomon, *Of making many books there is no end, and much ſtudy is a wearineſs of the fleſh. Let us hear the concluſion of the whole matter. Fear God and keep his Commandements; for this is the whole duty of man.* Meaning, that books which ſerve to any other purpoſe are a laborious vanity, conſumptive of our time and health to no purpoſe: nothing elſe being to any purpoſe but ſuch things as teach us to fear God, and how to keep his Commandements. All books, and all learning which miniſters to this end, partakes of the goodneſſe of the end; but that which promotes it not, is not to be regarded: and therefore the Chaldee Paraphraſt reades theſe words into an adviſe of making many books tending to holineſſe. *Fili mi, monitus eſto ut facias libros ſapientiæ plurimos, adeò ut non ſit finis; & ut ſtudeas verbis Legis, conſpiciaſque defatigationem carnis.* Make books of wiſdom very many, and ſtudy in the words of the Law till thou mayeſt ſee the wearineſſe of thy fleſh. *Beata ætas quæ in vita hominum regenda totam diſputandi rationem poſuit*, Bleſſed are the times in which men learn to diſpute well that they may live the better. And truly it were much to be wiſhed that men would doe ſo now; endeavouring to teach the waies of Godlineſſe in ſincerity; to ſhew to men the right paths of Salvation; to deſcribe the right and plain meaſures of Simplicity, Chriſtian Charity, Chaſtity, Temperance and Juſtice; to unwind the intanglements of Art, and to ſtrip Moral Theology of all its Viſors; to detract all the falſhoods and hypocriſies of crafty men; to confute all the falſe principles of evil Teachers, who by uncertain and deceitfull grounds teach men to walk confidently upon trapdoors and pit-falls, and preach doctrines ſo dangerous and falſe,

Seneca ad Lucilium.

Eccleſ. 12. 12.

falſe, that if their Diſciples ſhould live according to the conſequents of ſuch doctrines, without doubt they muſt periſh everlaſtingly.

It is a great work and too heavy for one mans ſhoulders; but ſome body muſt begin; and yet no man ever would, if he can be affrighted with the conſideration of any difficulty in the world. But I have laid aſide all conſiderations of my ſelf, and with an intire dependence upon God for help, I have begun an inſtitution of Morall Theology, and eſtabliſhed it upon ſuch principles and inſtruments of probation which every man allows, and better then which we have none imparted to us. I affirm nothing but upon grounds of Scripture, or Univerſall Tradition, or right Reaſon diſcernable by every diſintereſt perſon, where the queſtions are of great concern, and can admit theſe probations: Where they cannot, I take the next beſt; the laws of wiſe Commonwealths and the ſayings of wiſe men, the reſults of fame and the Proverbs of the Ancient, the Precedents of holy perſons and the great examples of Saints. πεπαιδευμένε γάρ ἐστιν ἐπὶ τοσοῦτον τ' ἀκριβὲς ἐπιζητεῖν καθ' ἕκαστον γένος, ἐφ' ὅσον ἡ τοῦ πράγματος φύσις ἐπιδέχεται. Ariſt. lib. 1. eth c. 3

ὥσπερ γὰρ φαίνεται μαθηματικοῦ πιθανολογοῦντος ἀποδέχεσθαι, καὶ ῥητορικὸν ἀποδείξεις ἀπαιτεῖν. He that is well inſtructed will require in every kind of argument and diſputation no other proof or ſubtilty then the ſubject matter will bear. For it were ridiculous for a Mathematician to goe about to perſwade with eloquence, or an Orator to pretend to demonſtrations. But Morall Theology is a collective Body of all wiſdome, whereof ſome things are demonſtrable and many are probable, and other things are better then their contraries; and they are to be proved accordingly, every thing in its proportion and capacity. And therefore here I make uſe of all the *Brocardics*, or rules of interpreters; that is, not only what is eſtabliſhed regularly in law, but what is concluded wiſe and reaſonable by the beſt interpreters. *Socinus*, *Duennas*, *Azo*, *Gabrielius*, *Damaſus*, and divers other great Lawyers attempted this way in the interpretation of the Civil and Canon law. I intermeddle not in the queſtion, whether they did well or ill, but leave the conteſt as it lies between *Duarenus* and *Balduinus* who blame them, and *Weſenbech* and *Gribaldus* who are their confident Advocates. But in the diſcourſes of Conſcience, whatſoever is right reaſon, though taken from any faculty or ſcience, is alſo of uſe and efficacy. Becauſe whatever can guide the actions or diſcourſes, or be the buſineſſe or the conduct of any man, does belong to Conſcience and its meaſures;

measures; and what is true in any *Science*, is true in *Conſcience*.

I do not ſay that what is true or allowed in *humane laws* is alſo true or allowed in the *Divine*; becauſe though God does juſtly and wiſely, yet men doe not alwaies ſo; and what is true in Sciences is not alwaies underſtood to be true in Civil laws. *Qualis cauſa, talis effectus*, ſaith the Philoſopher, The cauſe and the effect are of the ſame nature. But the Lawyer ſaies, this is not alwaies true. For *Manumiſſion*, which is a cauſe of liberty, is of the Civil law and poſitive inſtitution; but *Liberty*, which is the effect of it, is of the law of Nature. Now although the Philoſopher underſtands his Rule of *Natural cauſes and effects*, or thoſe cauſes which are artificial, but operate by the way of Nature, and intends it not at all to be perſwaſive in matters of poſitive and legal inſtitution; yet this truth and all other truths muſt prevail in Conſcience, becauſe they are emanations from the fountain of truth; from whence nothing can derive that is not alwaies true, and in all ſenſes true where they are intended to perſwade or teach. But then the truths of Philoſophy muſt be uſed in the meaſures of Conſcience by the intentions of Philoſophy, and not be carried on to a diſparate matter, and without cauſe be indifferently applied, the ſame words to things of another nature. * There is a Rule in Philoſophy, *Incorporalia ſunt individua*: from hence *Hottoman* argues, Therefore *Dominion*, Heritage, *Uſusfructus*, or the uſe of a thing by him that is not the Lord, are *individual*, becauſe they are incorporeal. Now this will deceive him that truſts upon it: not becauſe what is true in one place is not true alwaies and every where; but becauſe theſe words applied to other matters, and the words ſignifying other intentions, they abuſe the unwary hearer, but inſtruct not. But becauſe the queſtions of Conſcience doe relate to all matters, therefore to theſe all Arts and Sciences do miniſter. *Res fiſci eſt ubicunque natat*, Whatſoever ſwims upon any water belongs to this Exchequer; that is, ſaith S. *Auſtin*, *Chriſtianus Domini ſui eſſe intelligit, ubicunque invenerit veritatem*, If it be truth, whereſoever it be found, the Chriſtian knows it is his Lords goods: and therefore I have prov'd and adorn'd ſome truths with the wiſe ſayings of Philoſophers and Poets, *ut Deo ſerviat quicquid puer utile didici*, that, according to the expreſſion of the ſame Saint, whatſoever being a child I learned which can profit, may be brought in to ſerve and pay homage to God. But ſtill they are to be underſtood according to the ſenſe and meaning of their proper Art where they dwell. And though there is great need of skill in all thoſe Sciences from

De doct. Chriſt. li. 2. c. 18.

Coleſſ. 3. c. 15.

from whence we derive notices in order to the conduct of Conſcience; and that it will be hard for any man to pretend to be Maſter of all thoſe things which muſt be us'd in theſe diſcourſes; yet I who will not pretend to that, have yet taken as good a courſe as I could to inform my ſelf, though not in the whole Syſtem of every art in the whole circle which I have here occaſionally us'd, yet I have been carefull to underſtand thoſe few things which I have thence drawn in as auxiliaries: and leſt I ſhould yet fail, I have taken another courſe by way of caution and defence, that I may be right and ſure in the reflexe, if I had cauſe to doubt of any thing in the direct notice.

For I have propounded to my ſelf general meaſures to be as boundaries to the determination of doubts and the anſwer of queſtions; which ſo long as I do obſerve, my error will be very innocent, if any happens. For 1. In hard and intricate queſtions I take that which is eaſie and intelligible, and concerning which it will be eaſie to judge whether it be right or wrong. 2. In odious things, and matters of burden and envy, I take that part which is leaſt, unleſſe there be evident reaſon to the contrary. 3. In favours I alwaies chuſe the largeſt ſenſe, when any one is bettered by that ſenſe, and no man is the worſe. 4. In things and queſtions relating to men I give thoſe anſwers that take away ſcruples, and bring peace and a quiet mind. 5. In things relating to God I alwaies chuſe to ſpeak that thing which to him is moſt honourable. 6. In matters of duty I alwaies chuſe that which is moſt holy. 7. In doubts I chuſe what is ſafeſt. 8. In probabilities I prefer that which is the more reaſonable, never allowing to any one a leave of chuſing that which is confeſſedly the leſſe reaſonable in the whole conjunction of circumſtances and relative conſiderations.

Upon the account of theſe principles I hope to ſerve God and the good of Souls. For theſe being the points of my compaſſe, which way ſoever I ſail, I ſhall not ſuffer ſhipwrack: and if at any time I goe about, which I have avoided as much as my infirmities will permit, yet at laſt, and in the whole, I arrive where I ought to be. For indeed in this whole affair I have proceeded with great fear; as knowing that he who writes Caſes of Conſcience, does in a manner give lawes to all that do believe him: and no man perſwades more vehemently then he that tells you, *This, God forbids*; *This, God commands*; and therefore I knew that to be miſtaken here was very evil, and might do much evil; but to be careleſſe, or prejudicate, or partiall, or flattering, or

oppreſſive with ſeverity, or unſafe with gentleneſſe, was criminal in the cauſe as well as miſchievous in the event: and the greateſt ſecurity which I have that I have not ſpoken unſafely in any mans caſe, is becauſe I have prayed much, and laboured much that I might not at all miniſter to error or ſchiſme, to folly or vanity, but to the glory of God, and to the good of Souls: and I have ſo determined every Caſe that I have here preſented, as I my ſelf would practiſe, as I would account at the day of judgment, through the mercies of God in Jeſus Chriſt, and the integrity and ſimplicity of my Conſcience: and therefore I deſire that my Reader will uſe the ſame caution and ingenuity before he condemns any concluſion, and conſider, that as in theſe things it was impoſſible to pleaſe every man ἑρμασιν ὲν μεγάλοις πᾶσιν ἀδεῖν χαλεπὸν· ſo I deſign'd to pleaſe no man but as he is a lover of truth, and a lover of his own ſoul.

The ſtyle that I here uſe is according as it happens, ſometimes plain, ſometimes cloſer: the things which I bring are ſometimes new, and ſometimes old; they are difficult and they are eaſie; ſometimes adorn'd with caſes, and the caſes ſpecificated in ſtories, and ſometimes in ſtead of a ſtory I recite an apologue, and diſguiſe a true narrative with other names, that I may not diſcover the perſon whoſe caſe I diſcourſe of: and in all things I mind the matter; and ſuppoſe truth alone and reaſon and the piety of the deciſion to be the beſt ornament; and indeed ſometimes the thing it ſelf will not be handled otherwiſe.

Ornari res ipſa negat, contenta doceri.

I was here to ſpeak to the Underſtanding, not to winne the affections; to convince, not to exhort: and where I had no certainty in a caſe, or that the parts of a queſtion were too violently contended for, without ſufficient evidence on either ſide, I have not been very forward to give my final ſentence; but my opinion and my reaſon;

Per verbum FORTE reſpondent ſæpe periti.

Gloſ. in c. quorum appell. non recipiuntur.

And yet I hope that in ſome caſes it will be found, that though I am not fierce, poſitive and decretory, yet the caſe it ſelf is ſufficiently declared, ſo that he who hath occaſion to uſe it, may upon thoſe accounts determine himſelf. For the Modeſty of him that teaches is not alwaies an argument that he is uncertain in his propoſition. Τὸ νομίζω, καὶ δοκεῖν, καὶ τὰ ζητούμενα ὲ πάντως ὅτι ἀμφιβολιᾶ πατοῦσιν οἱ παλαιοὶ, ἀλλὰ πολλάκις καὶ ὅτι τῶ ἀληθεύειν.

D. 3. 15. Ad Olymth. 1.

δόξειεν· ὅταν οὖν ϗ ὃ νομίζω ἐνταῦθα ἀντὶ τοῦ κρίνω, ϗ πρόδηλον, ſaith *Ulpian.* When the Antients ſaid, *I ſuppoſe, I think, It ſeems,* they did not alwaies mean that they were uncertain; but they ſometimes intended it for a modeſt, but a direct affirmative: and ſo I doe in ſome few Caſes where there is great reaſon on one ſide, and a great prejudice on the other: I give my reaſons, and lay down the Caſe and all its allays, and leave it to prevail without my ſentence by its own ſtrength. And for this I hope no man will be offended at me: if he be, it is becauſe I was not willing to offend him; but I was deſirous to inſtruct, to comfort, to determin and to eſtabliſh him that needs.

I have ſtudiouſly avoided all queſtions that are curious and unprofitable; ſuch, I mean, which are only trials of witt, but neither miniſters of Juſtice nor Religion. Such was that which was brought before the Lawyers and all the learned men of *Athens*, with great noiſes to little purpoſe. A Gentleman of *Ægina* dying left three daughters. The one was beauteous and wanton; the ſecond a lover of wine and gay pleaſures; and the third a good ſpinſter, and a great follower of Country houſwifry. He made the Mother of theſe daughters to be his Heir upon this condition, that ſhe ſhould divide all his eſtate between his daughters equally; but in ſuch a manner, that what they received they ſhould neither poſſeſſe nor enjoy, and as ſoon as ever they had quitted their portions they ſhould pay each of them to their Mother ten thouſand Philippics. The Mother runs to *Athens*, conſults the Lawyers and Philoſophers how this *Will* ſhould be fulfilled; but they know not, as ſuppoſing one part to croſſe another, and altogether to be impoſſible; for if the whole eſtate be divided amongſt them, how is it that they ſhall not enjoy it? and if they do not, how ſhall they pay their Mother her aſſignment? The Mother therefore finding no help there, contrives it thus her ſelf. To the pretty wanton ſhe gives rich clothes, ſmooth Eunuchs, ſoft beds, ſweet perfumes, ſilver lavatories, and all things which ſhe ſuppos'd might pleaſe her luſt, and conſume her portion. To the drinking girle ſhe provides veſſels of rich wines, a houſe well furniſhed, and all things fitted for expenſive entertainments. But to the Country houſwife, a good farm, plowmen and a great ſtock, many horſes and ſome cows, ſome Men-ſervants and a great many Maidens, a kennel of hounds and a few ſwine; ſuppoſing this was no very probable way for her to thrive, but the likelieſt way to do her Husbands will; becauſe the luſt of the firſt, and the thirſt and debauchery of the ſecond, and the ill-

contrived ſtock of the third would conſume all their portions. But all this while ſhe conſidered not how when they grew poor, ſhe ſhould receive her ſhare. But at laſt, a wiſer Man then was in the Schools of *Athens* advis'd her thus; Give to the Drunken maiden the rich garments, the jewels and the Eunuchs; and becauſe ſhe loves them not, ſhe will ſell them all for old wines of *Chios*: To the Wanton give fields and cattel, oxen and ploughs, hinds and ſwine; and ſhe will quickly ſell them that ſhe may entertain her Lovers: But if you give veſſels of wine to the Country girl, ſhe knows not what to doe with them, and therefore will ſell them to the Merchant for ready money. Thus ſhall neither of them enjoy their portion; but by ſelling it, they ſhall be enabled to pay the money to their Mother. This was a Riddle, rather then a Caſe of Law or Conſcience; and ſo are many others, which I therefore reſolved to lay aſide, and trouble no mans Conſcience or head with them; as ſuppoſing that the anſwer of the dul *Diodorus* mention'd in the Greek Epigram is ſufficient for ſuch curioſities,

Ἤ συι, ἢ πῦ ἐλεύῖι, &c.

It is ſo, or it is not ſo; it muſt be done this way, or ſome other; the thing in queſtion is yours, or ſome bodies elſe: but make the Judge your friend, and I will warrant your cauſe, provided it be juſt; but look you to that. A ſlight anſwer to an intricate and uſeleſs queſtion is a fit cover for ſuch a diſh; a cabbage leaf is good enough to cover a pot of muſhromes: but I have taken a ſhorter way, and laid them all aſide; remembring the ſaying of Frier *John Annias* to *Nicolaus de Lyra*; *Teſtimonium Dei lucidum eſt, nec egent literæ Divinæ plicis*, The things of God are plain and eaſie: and therefore I have rejected every thing that is not uſefull and intelligible; chuſing only to make ſuch inquiries by which we may become better, and promoted in ſomething of our duty;

Quid ſumus, & quidnam victuri gignimur, ordo
Quis datus, aut metæ quam mollis flexus, & unde,
Quis modus argento, quid fas optare, quid aſper
Utile nummus habet, patriæ, charíſque propinquis
Quantum elargiri deceat, quem te Deus eſſe
Juſſit, & humanâ quâ parte locatus es in re:

viz. That we may be taught how to know what God requires of us, inſtructed to ſalvation, and fitted to every good work.

But

But now I ſhall deſire that he who reads my Book will not expect this Book to be a collective body of particular Caſes of Conſcience; for I find that they are infinite, and my life is not ſo: and I ſhall never live to write them all, or to underſtand them all: and if I ſhould write ſome and not all, I ſhould profit I know not whom, and doe good but to a very few, and that by chance too; and it may be that their caſes being changed by circumſtances would not be fitted by my indefinite anſwers. I therefore reſolved upon another way; which although No Man before me hath trod in writing Caſes of Conſcience, yet I cannot ſay it is new; for I took my pattern from *Tribonianus* the Lawyer, who out of the lawes of the old Romans collected ſome choice Rules which give anſwer to very many Caſes that happen. And after I had conſidered and tried many others, I found this moſt reaſonable, moſt uſefull and moſt comprehenſive of all matters relating to my preſent Undertaking. For I intend here to offer to the world *a General inſtrument* of *Morall Theology*, by the rules and meaſures of which, the guides of Souls may determine the particulars that ſhall be brought before them; and thoſe who love to inquire, may alſo find their duty ſo deſcribed, that unleſſe their duties be complicated with Laws, and civil Cuſtomes, and ſecular intereſts, men that are wiſe may guide themſelves in all their proportions of Conſcience: but if their caſe be indeed involved, they need the conduct of a Spiritual Guide to untie the intrigue, and ſtate the queſtion, and applie the reſpective Rules to the ſeveral parts of it; for though I have ſet them down all in their proper places relating to their ſeverall matters, yet when a queſtion requires the reaſon of many Rules, it is not every hand that can applie them: Men will for ever need a living guide; and a wiſe Guide of Souls will by ſome of theſe Rules be enabled to anſwer moſt Caſes that ſhall occur.

For although I have not given anſwers to every doubt; yet have I told what we are to doe when any doubt ariſes; I have conducted the doubting Conſcience by ſuch Rules which in all doubts will declare her duty: and therefore if the matter of the doubt be in the reception of the Sacrament of the Euchariſt, or in wearing cloths, or in eating, the Rule is the ſame and applicable to every matter. I have not diſputed whether Sumptuary lawes be actually obligatory to us in *England* or *Ireland*; but I have told by what meaſures we ſhall know concerning all laws, whether they be obligatory or no,

in any place, and to every perſon. I have not expounded all the laws of God, but I have told by what rules they are to be expounded and underſtood. But becauſe theſe Rules have influence upon all particulars, I have by way of inſtance and illuſtration determined very many ſpecial Caſes: and I was a little curious to chuſe ſuch which are the matter of our uſual inquiries; and have been very ſtudious to draw in to particular Scrutiny moſt of the principal and nobleſt queſtions of Chriſtendom which could relate to the matter of my *Rule*; provided that they were practicall and did miniſter to good manners; having that of *Lactantius* in my mind, *Non tam de rebus humanis bene meretur qui ſcientiam bene dicendi affert, quam qui piè & innocenter docet vivere.* He beſt deſerves of mankind who teaches men to live well rather then to talk well: and therefore the wiſer Greeks preferred Philoſophers before Orators. *Illi enim rectè vivendi Doctores ſunt exiſtimandi, quod eſt longe præſtabilius.* It is better to be a Doctor of good life, then of eloquent or learned ſpeaking: for there are but few who are capable of eloquence, but to live well is the duty of all: and I have alwaies been pleaſed with the ſaying of *Jupiter* to *Pallas* in the apologue, when he kiſſed her cheek for chuſing the fruitfull Olive.

----Nam quod facimus, id niſi utile eſt,
Stulta omnis atque inanis inde eſt gloria;

unleſſe it does good & makes us better, it is not worth the uſing: and therefore it hath been no ſmall part of my labour not only to doe what was neceſſary, but to lay aſide what was uſeleſſe and unfit, at leaſt what I thought ſo.

In this manner by the Divine aſſiſtance I have deſcribed a Rule of Conſcience: in the performance of which I ſhall make no excuſes for my own infirmities, or to guard my ſelf from the cenſure of the *Curious* or the *Scorners*. I have with all humility and ſimplicity deſired to ſerve God, and to miniſter to his Church, and I hope he will accept me: and for the reſt, I have laid it all at his moſt holy feet, and therefore will take no further care concerning my ſelf in it. Only I am deſirous that now I have attempted to deſcribe a General Rule, they who find it defective would be pleaſed to make this more perfect by adding their own Symbol; which is much eaſier then to erect that building which needs but ſome addition to make it uſefull to all its purpoſes and intentions. But if any man, like a bird ſitting upon a tree, ſhall foul the fruit and diſhonour it, that it may be unfit for food, I ſhall

ſhall be ſorrowfull for him that does ſo, and troubled, that the good which I intended to every one, ſhould be loſt to any one. But I ſhall have the Prophet's comfort if I have done my duty in righteouſneſſe and humility: *though I labour in vain and ſpend my ſtrength for nought, yet ſurely my judgment is with the Lord, and my work is with my God.* Iſa. 49. 4. 5.

I know not whether I ſhall live to adde *Matter* to this *Form*, that is, to write a particular explication of all the precepts of Chriſtian Religion; which will be a full deſign of *all ſpecial caſes* and queſtions of Conſcience meaſurable by this *General Rule*. If I doe not, I hope God will excite ſome other to doe it; but whoever does it, he will doe it with ſo much the more profit, by how much he does diſpute the leſſe: and I remember that *Socrates* and *Sozomen* tell that *Ælius* the Heretick was counted an Atheiſt *propter eriſticum loquendi & diſputandi modum*, becauſe he taught no part of religion but he minc'd it into queſtions and chop'd it into *Ariſtotle's Logick*. The ſimple and rational way of teaching God's Commandements as it is moſt eaſie, ſo it is moſt uſefull; and all the caſes that will occur will the moſt eaſily be anſwered by him that conſiders and tells in what Caſes they bind, and in what they bind not: which is the duty of him that explicates, and may be delivered by way of plain rule and eaſie commentary.

But this I ſhall advertiſe; That the Preachers may retrench infinite numbers of Caſes of Conſcience if they will more earneſtly preach and exhort to ſimplicity and love; for the want of theſe is the great multiplier of Caſes. Men do not ſerve God with honeſty and heartineſſe, and they do not love him greatly; but ſtand upon tearms with him, and ſtudy how much is lawfull, how far they may goe, and which is their utmoſt ſtep of lawfull, being afraid to doe more for God and for their Souls then is ſimply and indiſpenſably neceſſary; and oftentimes they tie religion and their own luſts together, and the one intangles the other, and both are made leſſe diſcernible, and leſſe practicable. * But the good Man underſtands the things of God; not only becauſe God's Spirit by ſecret immiſſions of light does properly inſtruct him; but becauſe he hath a way of determining his Caſes of Conſcience which will never fail him. For if the queſtion be put to him whether it be *fit* for him to give a ſhilling to the poor; he anſwers that it is not only fit, but neceſſary to doe ſo much at leaſt, and to make it ſure, he will give two: and in matter of duty he takes to himſelf the greater ſhare; in privileges and diviſions of right, he is content with the leaſt:

and in queſtions of priority and dignity he alwaies prevails by ceſſion, and ever is Superior by ſitting loweſt, and gets his will, firſt by chuſing what God wills, and then what his neighbour impoſes or deſires. But when Men have no love to God, and deſire but juſt to ſave their Souls, and weigh grains and ſcruples, and give to God no more then they muſt needs, they ſhall multiply Caſes of Conſciences to a number which no books will contain, and to a difficulty that no learning can anſwer.

The multiplication alſo of Laws and Ceremonies of Religion does exceedingly multiply queſtions of practice; and there were among the Jews by reaſon of their numerous rites many more then were at firſt among the Chriſtians. For we find the Apoſtles only exhorting to humility, to piety towards parents, to obedience to Magiſtrates, to charity and juſtice; and the Chriſtians who meant well underſtood well, and needed no books of Conſcience but the Rule, and the Commandement. But when Error crept in, Truth became difficult and hard to be underſtood: and when the Rituals of the Church and her laws became numerous, then Religion was hard to be practiſed: and when Men ſet up new intereſts, then the laws of Conſcience were ſo many, that as the laws of the old Romans,

---- *verba minantia fixo*
Ære legebantur ---

which at firſt were nailed in a braſſe-plate upon a wall, became at laſt ſo numerous and filled ſo many volumes, that their very *Compendium* made a large Digeſt; ſo are theſe, too many to be conſidered, or perfectly to be underſtood; and therefore either they muſt be cut off by ſimplicity and an honeſt heart, and contempt of the world, and our duty muſt look for no meaſures but love and the lines of the eaſie Commandement, or elſe we can have no peace and no ſecurity. But with theſe there is not only collateral ſecurity, but very often a direct wiſdom. Becauſe he that endeavours to keep a good Conſcience and hath an honeſt mind, beſides that he will enquire after his duty ſufficiently, he will be able to tell very much of it himſelf: for God will aſſiſt him, and cauſe that *his own mind ſhall tell him more then ſeven Watchmen that ſit in a tower*; and if he miſſe, he is next to an excuſe, and God is ready to pardon him: and therefore in what ſect of *Chriſtianity* ſoever any man is ingaged, *if he have an honeſt heart, and a good Conſcience*, though he be in darkneſſe, he will find his way out, or grope his way within; he ſhall be guided, or he ſhall be pardon'd;

God

God will pity him, and find ſome way for his remedy; and if it be neceſſary, will bring him out.

But however it comes to paſſe, yet now that the inquiries of Conſcience are ſo extreamly numerous, Men may be pleaſed to obſerve that Theology is not every mans trade; and that it requires more wiſdom and ability to take care of Souls, then thoſe Men who now-adays run under the formidable burden of the Preachers office can bring from the places of their education and firſt imploiment. Which thing I doe not obſerve that by it I might bring reputation to the office of the Clergy; for God is their portion and lot, and as he hath given them work enough, ſo he hath given them honour enough, though the world deſpiſe them: but I ſpeak it for their ſakes who doe what they ought not, and undertake what they cannot perform; and conſequently doe more hurt to themſelves and others then poſſibly they imagine; which it were better they ſhould amend, then be put to anſwer for it before Him who loves Souls better then he loved his life, and therefore would not intruſt them to the conduct of ſuch perſons, who have need to be taught the plain things of ſalvation, and learn to doe juſtice and charity, and the proper things of a holy religion.

Concerning my ſelf I ſhall make no requeſt to my Reader, but that he will charitably believe I mean well, and have done my beſt. If any Man be troubled that he hath expected this *Nothing* ſo long; I cannot make him other anſwer, but that I am afraid it is now too ſoon; and I bleſſe God that I had abilities of health and leiſure now at laſt to finiſh it: but I ſhould have been much longer, if God had not by the *piety* of one of his *Servants* provided for me a comfortable retirement and opportunity of leiſure: which if I have improved to God's glory, or to the comfort and inſtitution of any one, *He* and *I* both have our ends, and God will have his Glory; and that's a good Concluſion, and to that I humbly dedicate my Book.

From my Study in *Portmore* in *Kilultagh*,
October 5. 1659.

A TABLE

Of the TITLES of the Chapters, and the Rules of the

FIRST BOOK.

Of Conſcience, the kinds of it, and the generall Rules of conducting them.

CHAP. I.

The Rule of Conſcience in general.

RULE I.

Conſcience is the mind of a man, governed by a Rule, and meaſured by the proportions of good and evil in order to practice. Pag. 1.

2.

The Duty and Offices of Conſcience are to dictate and to teſtifie or bear witneſs, to accuſe or excuſe, to looſe or bind. 11

3.

Be carefull that Prejudice or Paſsion, Fancy and Affection, Error or Illuſion, be not miſtaken for Conſcience. 26

4.

The Conſcience of a Vitious man is an Evil Judge and an imperfect rule. 30

5.

All Conſciences are to walk by the ſame rule, and that which is juſt to one is ſo to all in the like Circumſtances. 32

6.

In Conſcience that which is firſt is trueſt, eaſieſt and moſt uſefull. 34

7.

Conſcience by its ſeveral habitudes and relations and tendencies toward its proper object is divided into ſeveral kinds. 35

CHAP. II.

Of the Right or Sure Conſcience.

1.

A Right Conſcience is that which guides our actions by right and proportion'd means to a right end. 38

2.

In a right Conſcience the practical judgment, that is the laſt determination to an action, ought to be ſure and evident. 38

3.

The practical judgment of a right Conſcience is alwaies agreeable to the ſpeculative determination of the underſtanding. 49

4.

A Judgment of Nature or Inclination is not ſufficient to make a ſure Conſcience. 62

5.

When two motives concur to the determination of an action, whereof one is vertuous and the other ſecular, a Right Conſcience is not prejudic'd by the mixture. 64

6.

An argument not ſufficient nor competent, though it do perſwade us to a thing in it ſelf

ſelf good, is not the ground of a right, nor a ſufficient warrant for a ſure Conſcience. 73

7.

A Conſcience determined by the counſil of wiſe men, even againſt its own inclinations, may be ſure and right. 80

8.

He that ſins againſt a right and a ſure Conſcience, what ever the inſtance be, commits a great ſin, but not a double one. 81

9.

The goodneſſe of an object is not made by Conſcience, but is accepted, declared and publiſhed by it, and made perſonally obligatory. 95

CHAP. III.

Of the Confident or erroneous Conſcience.

1.

AN erroneous Conſcience commands us to doe what we ought to omit, or to omit what we ought to doe, or to doe it otherwiſe then we ſhould. 99

2.

An erroneous Conſcience binds us to Obedience, *but not ſo as a right Conſcience does.* 102

3.

A Conſcience erring vincibly or culpably is an unavoidable cauſe of ſin, whether it be reſiſted or complied with. 109

4.

It is a greater ſin to doe a good action againſt our Conſcience, then to doe an evil action in obedience to it. 111

5.

It is not lawfull to delight in an evil action (after the diſcovery of our error) which we did innocently in our erroneous Conſcience. 112

6.

An innocent or invincibly erring Conſcience is to be obeyed even againſt the known Commandements of a Superiour. 113

7.

The Error of an abuſed Conſcience ought to be reformed ſometimes by the command of the Will, but ordinarily by a contrary reaſon. 116

8.

The Error of a Conſcience is not alwaies to be opened to the erring perſon by the Guides of Souls, or any other charitable adviſer. 117

CHAP. IV.

Of the Probable or thinking Conſcience.

1.

A Probable Conſcience is an imperfect aſſent to an uncertain propoſition, in which one part is indeed clearly and fully choſen, but with an explicit or implicit notice that the contrary is alſo fairly eligible. 119

2.

A Conſcience that is at firſt and in its own nature probable may be made certain by accumulation of many probabilities operating the ſame perſwaſion. 124

3.

Of two Opinions equally probable upon the account of their proper reaſons, one may be ſafer then another. 144

4.

An Opinion that is ſpeculatively probable is not alwaies practically the ſame. 144

5.

The greater probability deſtroys the leſs. 146

6.

When two Opinions ſeem equally probable the laſt determination is to be made by accidents, circumſtances and collateral inducements. 150

7.

It is not lawfull to change our practicall ſentence about the ſame object, while the ſame

ſame probability remains. 154

8.

An Opinion relying upon very ſlender probability is not to be followed, except in the caſes of great neceſsity or great charity. 154

9.

Multitude of Authors is not ever the moſt probable inducement, nor doth it in all caſes make a ſafe and ſure Conſcience. 156

10.

In following the Authority of men, no rule can be antecedently given for the choice of the perſons, but the choice is wholly to be conducted by prudence and according to the ſubject matter. 162

11.

He that hath given aſſent to one part of a probable opinion, may lawfully depoſe that Conſcience and that opinion upon confidence of the ſentence of another. 168

12.

He that enquires of ſeveral Doctors, untill he find one anſwering according to his mind, cannot by that enquiry make his Conſcience ſafe; but according to the ſubject matter, and other circumſtances he may. 171

13.

He that is asked concerning a caſe that is on either ſide probable, may anſwer againſt his own opinion if the contrary be probable, or more ſafe, or more expedient, or more favourable. 172

14.

When the Guide of Souls is of a different opinion from his charge or penitent, he is not bound to exact conformity to his own opinion that is but probable, but may proceed according to the Conſcience of the Penitent. 173

15.

The ſentence and arbitrement of a prudent and good man, though it be of it ſelf but probable, yet is more then a probable warranty to actions otherwiſe undeterminable. ibid.

CHAP. V.

Of a Doubtfull Conſcience.

1.

A Doubtfull Conſcience aſſents to neither ſide of the queſtion, and brings no direct obligation. 174

2.

A negative doubt neither binds to action nor inquiry nor repentance, but it binds only to caution and obſervance. 175

3.

A privative doubt cannot of it ſelf hinder a man from acting what he is moved to by an extrinſick argument or inducement that is in it ſelf prudent or innocent. 177

4.

In doubts of right or Law we are alwaies bound to enquire: but in doubts of fact not alwaies. 178

5.

In doubts the ſafer part is to be choſen. 180

6.

It is lawfull for the Conſcience to proceed to action againſt a doubt that is merely ſpeculative. 184

7.

Every dictate and judgment of the Conſcience, though it be little and leſs material, is ſufficient, and may be made uſe of for the depoſition of a doubt. 187

8.

When two precepts contrary to each other meet together about the ſame queſtion, that is to be preferred which binds moſt. 188

CHAP. VI.

Of the Scrupulous Conſcience.

1.

A Scruple is a great trouble of mind proceeding from a little motive and a

will, first by chusing what God wills, and then what his neighbour imposes or desires. But when Men have no love to God, and desire but just to save their Souls, and weigh grains and scruples, and give to God no more then they must needs, they shall multiply Cases of Consciences to a number which no books will contain, and to a difficulty that no learning can answer.

The multiplication also of Laws and Ceremonies of Religion does exceedingly multiply questions of practice; and there were among the Jews by reason of their numerous rites many more then were at first among the Christians. For we find the Apostles only exhorting to humility, to piety towards parents, to obedience to Magistrates, to charity and justice; and the Christians who meant well understood well, and needed no books of Conscience but the Rule, and the Commandement. But when Error crept in, Truth became difficult and hard to be understood: and when the Rituals of the Church and her laws became numerous, then Religion was hard to be practised: and when Men set up new interests, then the laws of Conscience were so many, that as the laws of the old Romans,

---- verba minantia fixo
Ære legebantur ---

which at first were nailed in a brasse-plate upon a wall, became at last so numerous and filled so many volumes, that their very *Compendium* made a large Digest; so are these, too many to be considered, or perfectly to be understood; and therefore either they must be cut off by simplicity and an honest heart, and contempt of the world, and our duty must look for no measures but love and the lines of the easie Commandement, or else we can have no peace and no security. But with these there is not only collateral security, but very often a direct wisdom. Because he that endeavours to keep a good Conscience and hath an honest mind, besides that he will enquire after his duty sufficiently, he will be able to tell very much of it himself: for God will assist him, and cause that *his own mind shall tell him more then seven Watchmen that sit in a tower*; and if he misse, he is next to an excuse, and God is ready to pardon him: and therefore in what sect of *Christianity* soever any man is ingaged, *if he have an honest heart, and a good Conscience*, though he be in darkness, he will find his way out, or grope his way within; he shall be guided, or he shall be pardon'd;

God

God will pity him, and find ſome way for his remedy; and if it be neceſſary, will bring him out.

But however it comes to paſſe, yet now that the inquiries of Conſcience are ſo extreamly numerous, Men may be pleaſed to obſerve that Theology is not every mans trade; and that it requires more wiſdom and ability to take care of Souls, then thoſe Men who now-adays run under the formidable burden of the Preachers office can bring from the places of their education and firſt imploiment. Which thing I doe not obſerve that by it I might bring reputation to the office of the Clergy, for God is their portion and lot, and as he hath given them work enough, ſo he hath given them honour enough, though the world deſpiſe them: but I ſpeak it for their ſakes who doe what they ought not, and undertake what they cannot perform; and conſequently doe more hurt to themſelves and others then poſſibly they imagine; which it were better they ſhould amend, then be put to anſwer for it before Him who loves Souls better then he loved his life, and therefore would not intruſt them to the conduct of ſuch perſons, who have need to be taught the plain things of ſalvation, and learn to doe juſtice and charity, and the proper things of a holy religion.

Concerning my ſelf I ſhall make no requeſt to my Reader, but that he will charitably believe I mean well, and have done my beſt. If any Man be troubled that he hath expected this *Nothing* ſo long; I cannot make him other anſwer, but that I am afraid it is now too ſoon; and I bleſſe God that I had abilities of health and leiſure now at laſt to finiſh it: but I ſhould have been much longer, if God had not by the *piety* of one of his *Servants* provided for me a comfortable retirement and opportunity of leiſure: which if I have improved to God's glory, or to the comfort and inſtitution of any one, *He* and *I* both have our ends, and God will have his Glory; and that's a good Concluſion, and to that I humbly dedicate my Book.

From my Study in *Portmore* in *Kilultagh*,
October 5. 1659.

V

A TABLE

Of the TITLES of the Chapters, and the Rules of the

FIRST BOOK.

Of Conſcience, the kinds of it, and the generall Rules of conducting them.

CHAP. I.

The Rule of Conſcience in general.

RULE I.

Conſcience is the mind of a man, governed by a Rule, and meaſured by the proportions of good and evil in order to practice. Pag. 1.

2.

The Duty and Offices of Conſcience are to dictate and to teſtifie or bear witneſs, to accuſe or excuſe, to looſe or bind. 11

3.

Be carefull that Prejudice or Paſsion, Fancy and Affection, Error or Illuſion, be not miſtaken for Conſcience. 26

4.

The Conſcience of a Vitious man is an Evil Judge and an imperfect rule. 30

5.

All Conſciences are to walk by the ſame rule, and that which is juſt to one is ſo to all in the like Circumſtances. 32

6.

In Conſcience that which is firſt is trueſt, eaſieſt and moſt uſefull. 34

7.

Conſcience by its ſeveral habitudes and relations and tendencies toward its proper object is divided into ſeveral kinds. 35

CHAP. II.

Of the Right or Sure Conſcience.

1.

A Right Conſcience is that which guides our actions by right and proportion'd means to a right end. 38

2.

In a right Conſcience the practical judgment, that is the laſt determination to an action, ought to be ſure and evident. 38

3.

The practical judgment of a right Conſcience is alwaies agreeable to the ſpeculative determination of the underſtanding. 40

4.

A Judgment of Nature or Inclination is not ſufficient to make a ſure Conſcience. 62

5.

When two motives concur to the determination of an action, whereof one is vertuous and the other ſecular, a Right Conſcience is not prejudic'd by the mixture. 64

6.

An argument not ſufficient nor competent, though it do perſwade us to a thing in it ſelf

self good, is not the ground of a right, nor a sufficient warrant for a sure Conscience. 73

7.

A Conscience determined by the counsil of wise men, even against its own inclinations, may be sure and right. 80

8.

He that sins against a right and a sure Conscience, what ever the instance be, commits a great sin, but not a double one. 81

9.

The goodnesse of an object is not made by Conscience, but is accepted, declared and published by it, and made personally obligatory. 95

CHAP. III.

Of the Confident or erroneous Conscience.

1.

AN erroneous Conscience commands us to doe what we ought to omit, or to omit what we ought to doe, or to doe it otherwise then we should. 99

2.

An erroneous Conscience binds us to Obedience, *but not so as a right Conscience does.* 102

3.

A Conscience erring vincibly or culpably is an unavoidable cause of sin, whether it be resisted or complied with. 109

4.

It is a greater sin to doe a good action against our Conscience, then to doe an evil action in obedience to it. 111

5.

It is not lawfull to delight in an evil action (after the discovery of our error) which we did innocently in our erroneous Conscience. 112

6.

An innocent or invincibly erring Conscience is to be obeyed even against the known Commandements of a Superiour. 113

7.

The Error of an abused Conscience ought to be reformed sometimes by the command of the Will, but ordinarily by a contrary reason. 116

8.

The Error of a Conscience is not alwaies to be opened to the erring person by the Guides of Souls, or any other charitable adviser. 117

CHAP. IV.

Of the Probable or thinking Conscience.

1.

A Probable Conscience is an imperfect assent to an uncertain proposition, in which one part is indeed clearly and fully chosen, but with an explicit or implicit notice that the contrary is also fairly eligible. 119

2.

A Conscience that is at first and in its own nature probable may be made certain by accumulation of many probabilities operating the same perswasion. 124

3.

Of two Opinions equally probable upon the account of their proper reasons, one may be safer then another. 144

4.

An Opinion that is speculatively probable is not alwaies practically the same. 144

5.

The greater probability destroys the less. 146

6.

When two Opinions seem equally probable the last determination is to be made by accidents, circumstances and collateral inducements. 150

7.

It is not lawfull to change our practicall sentence about the same object, while the same

ſame probability remains. 154

8.

An Opinion relying upon very ſlender probability is not to be followed, except in the caſes of great neceſsity or great charity. 154

9.

Multitude of Authors is not ever the moſt probable inducement, nor doth it in all caſes make a ſafe and ſure Conſcience. 156

10.

In following the Authority of men, no rule can be antecedently given for the choice of the perſons, but the choice is wholly to be conducted by prudence and according to the ſubject matter. 162

11.

He that hath given aſſent to one part of a probable opinion, may lawfully depoſe that Conſcience and that opinion upon confidence of the ſentence of another. 168

12.

He that enquires of ſeveral Doctors, untill he find one anſwering according to his mind, cannot by that enquiry make his Conſcience ſafe; but according to the ſubject matter, and other circumſtances he may. 171

13.

He that is asked concerning a caſe that is on either ſide probable, may anſwer againſt his own opinion if the contrary be probable, or more ſafe, or more expedient, or more favourable. 172

14.

When the Guide of Souls is of a different opinion from his charge or penitent, he is not bound to exact conformity to his own opinion that is but probable, but may proceed according to the Conſcience of the Penitent. 173

15.

The ſentence and arbitrement of a prudent and good man, though it be of it ſelf but probable, yet is more then a probable warranty to actions otherwiſe undeterminable. ibid.

CHAP. V.

Of a Doubtfull Conſcience.

1.

A Doubtfull Conſcience aſſents to neither ſide of the queſtion, and brings no direct obligation. 174

2.

A negative doubt neither binds to action nor inquiry nor repentance, but it binds only to caution and obſervance. 175

3.

A privative doubt cannot of it ſelf hinder a man from acting what he is moved to by an extrinſick argument or inducement that is in it ſelf prudent or innocent. 177

4.

In doubts of right or Law we are alwaies bound to enquire: but in doubts of fact not alwaies. 178

5.

In doubts the ſafer part is to be choſen. 180

6.

It is lawfull for the Conſcience to proceed to action againſt a doubt that is merely ſpeculative. 184

7.

Every dictate and judgment of the Conſcience, though it be little and leſs material, is ſufficient, and may be made uſe of for the depoſition of a doubt. 187

8.

When two precepts contrary to each other meet together about the ſame queſtion, that is to be preferred which binds moſt. 188

CHAP. VI.

Of the Scrupulous Conſcience.

1.

A Scruple is a great trouble of mind proceeding from a little motive and a

great indisposition, by which the Conscience, though sufficiently determined by proper arguments, dares not proceed to action, or if it does, it cannot rest. 208

2.

A Conscience sufficiently instructed by its proper arguments of perswasion may without sin proceed to action against the Scruple, and its weaker arguments or stronger tremblings. 213

3.

He that is troubled with scruples ought to relie upon the judgment of a prudent Guide. ibid.

4.

When a Doubt is resolved in the entrance of an action, we must judge of our action afterwards by the same measures as before; for he that changes his measures, turns his doubt into a Scruple. ibid.

5.

A Scrupulous Conscience is to be cured by remedies proper to the disease and to the man. 215

SECOND BOOK.

Of Divine Laws, and all Collaterall Obligations.

CHAP. I.

Of the Law of Nature in Generall.

1.

THE Law of Nature is the Universall Law of the world, or the Law of Mankind, concerning common necessities, to which we are inclined by Nature, invited by consent, prompted by reason; but is bound upon us only by the commands of God. 220

2.

The Law of Nature is the foundation of all Laws, and the measure of their Obligation. 243

3.

The first or greatest band of the Law of Nature is fear of punishment. 244

4.

The second band of Vertue is Love, and its proper and consequent deliciousness. 247

5.

The Imperfection of some provisions in civil Laws are supplied by the natural obligation remaining upon persons civily incapable. 251

6.

Sins against the Law of Nature are greater or less, not by that proportion, but by the greatness of the matter, and the evil consequent or the malice of the Sinner. 258

7.

Actions which are forbidden by the Law of Nature either for defect of power, or for the incapacity of the matter, are not only unlawfull but also void. 260

8.

When an act is forbidden by the Law of Nature for the turpitude and undecency that it hath in the matter of the Action, the Act is also void when the turpitude remains or hath a perpetual cause. 262

9.

The Law of Nature can be dispensed with by the Divine power. 263

10.

The Law of Nature cannot be dispensed with by any Humane power. 269

11.

That the Obligation to a naturall Law does cease in any particular, is not to be presumed in every one, but is to be declared by the publick voice. 274

12. The

12.
The Exactneſs of naturall Laws is capable of interpretation, and may be allayed by Equity and Piety and Neceſsity. 275

CHAP. II.

Of the Law of Nature as it is drawn up in the Chriſtian Law.

1.
When the Law of Jeſus Chriſt was eſtabliſhed, the Old Teſtament or the Law of Moſes did no longer oblige the Conſcience. 275

2.
The Ceremoniall Law of Moſes is wholly void. 280

3.
The Judicial Law of Moſes is annull'd or abrogated, and retains no obliging power either in whole or in part over any Chriſtian Prince, Commonwealth or perſon. 286

4.
The ten Commandments of Moſes, commonly called the Morall Law, is not a perfect Digeſt of the Law of Nature. 318

5.
All the Explications of the Morall Law that are found in the Prophets and other H. writers of the Old Teſtament are to be accounted as parts of the Morall Law, and equally oblige the Conſcience. 323

6.
Every thing in the Decalogue is not obligatory to Chriſtians, is not a part of the Morall Law or Naturall. 324
The meaſures of difference to diſcern between Morall precepts and precepts not Morall in all the Laws of God. 367

7.
There is no ſtate of men or things but is to be guided by the proportion of ſome Rule or Precept in the Chriſtian Law. 372

CHAP. III.

Of the Interpretation and Obligation of the Laws of JESUS CHRIST.

1.
IN Negative precepts the Affirmatives are commanded, and in the Affirmative commandments the Negative are included. 389

2.
When a Negative and an Affirmative ſeem oppoſite in any ſenſe, the Affirmative is to be expounded by the Negative, not the Negative by the Affirmative. 395

3.
In the Affirmative and Negative precepts of Chriſt, not only what is in the words of the Commandment, but whatſoever is ſymbolicall or alike, is equally forbidden or commanded. 396

4.
When any thing is forbidden by the Laws of Jeſus Chriſt, all thoſe things are forbidden alſo which follow from that forbidden action, or for whoſe ſake it was forbidden. 402

5.
The Laws of Jeſus Chriſt are the meaſures of the Spirit, and are alwaies to be extended to a ſpiritual ſignification. 404
Whatſoever is an Elicit or Imperate Act of vertue, whether it be acted by the ſoul or by the body, is an act of ſpiritual religion. 408
All acts of vertue are to be preferred before the Inſtruments of it; and that which exerciſes it before that which ſignifies it; and the inward Act before the outward. 410

6.
The Imperate Acts or outward expreſsions of one Commandement muſt not contradict the Elicit Acts of another. 411

7.
When any thing is forbidden by the Laws of Christ, all those things also by which we come to that sin are understood to be by the same Law forbidden. 414

8.
The Suppositive Propositions with the supervening advices of our B. Saviour are alwaies equivalent to matter of Duty, and are by Interpretation a Commandement. 417

9.
The Institution of a Rite or Sacrament by our B. Saviour is a direct Law, and passes a proper obligation in its whole integrity. 420

10.
If the sense of a Law be dubious, we are sometimes to expound it by Liberty, sometimes by Restraint. 432

11.
The positive Laws of Jesus Christ cannot be dispensed with by any Humane power. 440

12.
Not every thing that is in the Doctrines and Sermons of Jesus Christ was intended to bind as a Law or Commandement. 448

13.
Some things may be used in the service of God which are not commanded in any Law, nor explicitly commended in any doctrine of Jesus Christ. 454

14.
The Christian Law both of Faith and Manners is fully contained in the H. Scriptures, and from thence only can the Conscience have divine warrant and authority. 472

15.
In the Law of Christ there is no precept that ministers wholy to the Law of Moses, but for a time only and less principally. 519

16.
The Laws of Jesus Christ are to be interpreted to the Sense of a present Obedience according to the subject matter. 520

17.
Because the Laws of Jesus Christ were delivered in Sermons to a single person or a definite number of hearers, we are curiously to enquire and wisely to understand when those persons were only personally concerned, and when they were representatives of the whole Church. 540

18.
Evangelicall Laws given to one concerning the duty of another do in that very relation concern them both, but in differing degrees. 546

19.
Custome is no sufficient Interpreter of the Laws of Jesus Christ. 548

20.
The measure of perfection and obedience required of Christians is greater then that of the Jews even in morall duties common to them and us. 554

THE

THE SECOND VOLUME.

THIRD BOOK.

Of Humane Laws, &c.

CHAP. I.

Of Humane Laws in general.

1.

THE Conſcience is properly and directly, actively and paſsively under pains of ſin and puniſhment obliged to obey the Laws of men. 3

Rules whereby to conjecture at the gravity or leſſening of the Sin of diſobedience to humane Laws. 10

2.

Humane Laws doe not oblige the Conſcience to an active obedience, when there is an imminent danger, or an intolerable or very grievous evil in the obedience. 26

3.

The Laws of our Superiour that are not juſt and good do not bind the Conſcience. 32

4.

A Law that is founded on a falſe preſumption does not oblige the Conſcience. 37

5.

Humane Laws do bind the Conſcience to or from an act in ſecret as well as in publick. 40

6.

Humane Laws before ſufficient promulgation do not oblige the Conſcience. 44

7.

That a Law ſhould oblige the Conſcience does not depend upon the acceptation of the Law by the people. 46

8.

Humane Laws of indifferent matter do not oblige the Conſcience of the Subjects out of the Dominions of the Superiour. 49

9.

Obedience to Laws is to be paid according to what is commanded, not according to what is beſt. 51

CHAP. II.

Of Laws Penall and Tributary.

1.

IT is lawfull for Chriſtian Magiſtrates to make Penall Laws not only pecuniary and of reſtraint, but of loſs of member and life it ſelf. 53

2.

Penall do ſometimes oblige the guilty perſon to the ſuffering the puniſhment even before the ſentence and declaration of the Judge. 59.

In what caſes the Criminall is to be his own Executioner. 63

Signs by which we may judge when the Criminall is condemned ipſo facto. 67

3.

Penalties impoſed by the Judge muſt be ſuffered and ſubmitted to, but may not after ſuch ſentence be inflicted by the hands of the condemned. 71

4.

He that hath ſuffered the puniſhment is not diſcharged in Conſcience, unleſs he alſo repent of the diſobedience. 79

5.

It is not lawfull for a guilty perſon to de-

fend himself by calumny or a lye, from the penalty of the Law, though it be the ſentence of death. 82

6.

It is not lawfull for private Chriſtians without publick authority to puniſh malefactors, but they may require it of the Magiſtrate in ſome caſes. 107

7.

It is not lawfull to puniſh one for the offence of another merely and wholly. 117

8.

The Laws of Tribute are Morall Laws and not Penall, except it be by accident; and therefore do oblige the Conſcience to an active obedience. 124

9.

The Laws of tribute have the ſame conditions, cauſes, powers and meaſures with other Laws of government. 125

10.

Tribute and cuſtome, which are due, are to be paid, whether they be demanded or no. 127

CHAP. III.

Of Kings, Princes and all Supreme Civill Powers, and their Laws in Speciall.

1.

THE Supreme power in every Republic is univerſal, abſolute and unlimited. 130

2.

The Supreme power is ſuperior to the Civill Laws, but not wholy free from them. 138

3.

It is not lawfull for Subjects to rebell or to take up arms againſt the Supreme power of the Nation, upon any pretence whatſoever. 149.

4.

The Supreme civil power is alſo ſupreme Governour over all perſons and in all Cauſes Eccleſiaſticall. 160

5.

Kings have a legiſlative power in the affairs of Religion and the Church. 174

6.

The Supreme civil power hath a power of coercion over every perſon in the whole Order Eccleſiaſticall. 178

7.

The Supreme civil power hath Juriſdiction in cauſes not only Eccleſiaſticall but Internal and Spirituall. 199

8.

The Supreme civil power is to govern in cauſes Eccleſiaſticall by the means and meaſures of Chriſt's inſtitution, that is by the aſsiſtance and miniſteries of Eccleſiaſtical perſons. 207

CHAP. IV.

Of the power of the Church in Canons and Cenſures, with their obligations and powers over the Conſcience.

1.

THE whole power which Chriſt hath left in ordinary to his Church is merely ſpiritual. 211

2.

The Church hath power to make Laws, and to give Commands obliging the Conſcience, that is, tying the Subject to obedience under the penalty of committing or incurring the Divine diſpleaſure. 220

3.

The Church hath power to make laws in all things of neceſſary duty by a direct power and a divine authority. 224

4. *The*

4.
The Church hath power to make Laws in such things which are helps and apt ministeries and advantages of necessary duty. 226
The Rule [The Accessory follows the nature of the Principall] *explicated.* 227

5.
When the Canons or Rules of Ecclesiasticall Rulers are confirmed by the Supreme civill power, they oblige the Conscience by a double obligation. 234

§. II. *Of Censures Ecclesiasticall.*

6.
Kings and Princes are tied by the ties of religion, not of power, to keep the Laws of the Church. 237

7.
It is not lawfull for the Ecclesiasticall power to excommunicate Christian Princes or the supreme civil power. 240

8.
Ecclesiastical censures are to be inflicted by the consent and concurrence of the supreme civil power. 247

9.
Excommunication inflicted upon a light cause binds externally but not internally: but if it be inflicted upon an unjust cause it binds not at all. 255

10.
It is not lawfull to communicate with those whom the Church hath by a just sentence excommunicated. 260

§. III. *Of Canons Ecclesiastical.*

11.
The Canons of the Apostles which are of order and externall government do oblige the Conscience by being accepted in severall Churches, not by their first establishment. 266

12.
All those ritualls which were taught to the Apostles concerning ministeries, which were of divine institution, do oblige all Christendome to their observation. 269

13.
In the Rules which the Apostles gave to the Churches in things indifferent, the Church hath a liberty, but it is not to be used but for great reason, great necessity, and for the edification of their people committed to their charge. 272

14.
The Canons of the antient Generall & Provinciall Councils are then laws to the Conscience when they are bound upon us by the authority of the respective Governours of Churches. 285

15.
The Laudable customs of the Catholick Church which are in present observation do oblige the Conscience of all Christians. 287

16.
The Decrees and Canons of the Bishops of Rome oblige the Conscience of none but his own subjects. 298

§. IV. *Of the matter and conditions of Ecclesiasticall Laws required to the obligation of Conscience.*

17.
Ecclesiasticall Laws that are merely such cannot be universall and perpetuall. 301

18.
Ecclesiasticall Laws of ceremonies and externall observances do not bind the Conscience beyond the cases of contempt and scandall. 313

19.
Ecclesiasticall Laws must be charitable and easie; and when they are not, they oblige not. 315

20.
Ecclesiasticall Laws must ever promote the service of God and the good of Souls, but must never put a snare or stumbling-block to Consciences. 323

§. V.

§. V. *Of Ecclesiasticall Laws of Faith.*

21.
The Catholick Church is a witness of Faith and a record of all necessary truths; but not the Mistress and Ruler of our Creed, that is, cannot make any laws of Faith. 350

22.
The Decrees of Generall Councils are of great use in the conduct of Conscience, but not the proper measure or last determination of matters of belief. 353

23.
Subscription to articles and forms of confession in any Particular Church is wholly of Politicall consideration. 356

CHAP. V.

Of Laws Domestick, or the power which Fathers of Families have to bind the Consciences of their Relatives.

1.
Children are bound to obey the Laws and Commandments of their Parents in all things Domesticall, and in all actions personall relating to the familie, or done within it. 359

2.
Fathers have a power to chastise their offending children, but not a power of life and death. 364

3.
A Father hath power over the goods and persons of his children so as to be maintained by them. 366

4.
The Fathers power does not extend to matter of Religion and perswasions of Faith. 369

5.
The Fathers power over the children can remit an injury done to them without their leave or consent. 371

6.
A Fathers authority cannot abide after his death, but the Sons piety to his Father must and may pass upon him some indirect obligations. 372

7.
Neither the Fathers authority nor his Sons piety can oblige them to do an action against the Laws of God, or of the Fathers, or our just superiours. 374

8.
It is not lawfull for Children to enter into any lasting course of life against the will or approbation of their Fathers or parents. 378

CHAP. VI.

Of the Interpretation, Diminution and Abrogation of Humane Laws.

§. I. *Of Equity.*

1.
When the Letter of the Law is burdensome and unjust, the meaning and charity of the Law does only oblige the Conscience. 398

§. II. *Of Judiciall Interpretation.*

2.
When the power that made the Law does interpret the Law, the Interpretation is authenticall, and obliges the Conscience as much as the Law, and can release the bond of Conscience so far as the Interpretation extends as much as if the Law were abrogated. 407

§. III. *A contrary or ceasing reason.*

3.
A Law made for a particular reason, when the reason wholly ceases, does no longer oblige the Conscience. 411

§. IV. *Dispensation.*

4.
The Legislator hath authority to dispense in his

his own Laws for any cause that himself prudently shall judge to be reasonable, so that no distinct interest be prejudic'd or injur'd. 423

§. V. *Commutation.*

5.

The same power that can dispense can also commute a Duty: and as in the first it eases, so in the latter it binds the Conscience. 426

§. VI. *Contrary Customes.*

6.

A Custome can interpret a Law, but can never abrogate it without the consent of the supreme power. 427

§. VII. *Abrogation.*

7.

Abrogation of a Law by a competent, that is, the Supreme power, may be just and reasonable, though the Law it self be neither unreasonable nor unjust. 431

FOURTH BOOK.

Of the Nature and Causes of Good and Evil.

CHAP. I.

Of the Efficient Causes of all Humane Actions good or evil.

§. I. *Of Choice and Election voluntary and involuntary.*

1.

AN action is neither good nor evil, unless it be voluntary and chosen. 437

2.

The virtuall and interpretative consent of the will is imputed to Good or Evil. 455

Rules of conducting our Sports and Recreations. 473

3.

The Act of the will alone, although no externall action or event do follow, is imputed to Good or Evil by God and men. 480

4.

An Involuntary effect proceeding from a voluntary cause is imputed to the Agent as if it were voluntary and directly chosen. 489

§. II. *Of the Diminutions of voluntary Actions; and first of Ignorance, and its influence into the morality of Humane Actions.*

5.

Nothing is good or bad but what we know, or concerning which we can deliberate. 493

6.

Ignorance does alwaies excuse the fact, or diminish the malignity of it, or change the kind or nature of the Sin. 500

§. III. *Of Fear and Violence, and how these can make an action Involuntary.*

7.

Fear that makes our reason useless, and suffers us not to consider, leaves the actions it produces free from crime, even though it self be culpable. 511

CHAP. II.

Of the Finall cause of Humane actions, and its influence or causality of Good and Evil.

1.

IN every good Action the means and the end must be Symbolicall; so that a good Action done for an evil end, and an evil Action done for a good end, are alike Criminall. 517

2.

To do an action of it self lawfull for temporall regards, for ends of profit, pleasure, or honour, is not unlawfull, except it be accidentally. 520

3.

The end and intention of a Law is under the Commandement as much as the Action it self commanded in order to the end. 525

A *Table* of Questions solemnly handled and under distinct Titles.

1.

WHether it be in any case, or in what case it is lawfull to chuse the Conclusion before the Premisses. Pag. 28

2.

Whether one may believe a Proposition which he cannot prove. ibid.

3.

Whether the συνείδησις may be corrupted. 31. n.2.

4.

How far the Conscience may be corrupted. 31. n.3

5.

Of what use RIGHT REASON *ought to be in religion.* 42. n.8

6.

Whether they that enter into H. Orders are bound principally to design the glory of God. 65

7.

Whether it be lawfull to perswade a man to believe a truth by arguments which himself judges insufficient. 73

8.

Whether it be lawfull for a good end for preachers to affright men with Panick terrors, and to create fears that have no ground; as to tell them, If they be liars their faces will be deformed. 78. n.12

9.

Whether a Judge must give sentence according to the evidence of those witnesses whom he knows false, or according to his Conscience, though contrary to a legal process. 82. n.5

10.

Whether a false and abused Conscience can oblige us to pursue the error. 102. n.3

11.

Whether obedience to a Conscience erring vincibly or culpably be a double sin in the action and the principle.

12.

A Discourse to prove that the RELIGION *of* JESUS CHRIST *is from God.* 124

13.

Whether it be lawfull to severall persons to use probable arguments contradictory to one another for ends in themselves lawfull. 154

14.

How the Ignorant and vulgar people shall proceed, when the Teachers are divided in opinion. 159

15.

When the Authority of Divines is to be followed, when that of Lawyers. 165

16.

Whether it be lawfull to advise, determine or petition another to a lesser sin, that thereby he may avoid a greater. 189

17.

Whether it be lawfull for a wife that she may live with some degree of comfort to connive at her Husbands stolen pleasures, and what is the Womans duty, and most prudent course in this case. 190

LIB. II.

18.

Whether a will not sufficiently ratified according to the Civil Law be valid to the injury of any of the Legatees. 254

19.

Whether we under the Gospel are still bound to abstain from blood and things strangled. 281

20.

Whether the Judiciall Law of mutuall abstinence in the daies of womens separation obliges Christians. 287

21.

Whether Cosen-Germans may marry one another. 301

22.

Whether it be against the Law of Nations to doe so. 309

23.

Whether it be lawfull to make a picture or Image of God. 331

24.

Whether it be lawfull for Christians to worship God by an Image. 337

25. *How*

25.
How we are to celebrate the Lords day. 363
26.
Whether it is lawfull for a Prince to permit any thing for the publick neceſsities of the people, which is forbidden by the Laws of Jeſus Chriſt. 374
27.
Of the meaſures of War by Chriſt's Law. 377
28.
Whether the precedents of the Old Teſtament are a Law to them that go to war. 380
29.
Of the Negative meaſures of Examples in the Old Teſtament. ibid.
30. *Of the Example of Chriſt.* 383
31.
Of the uſe of Examples in the Old and New Teſtament. 386
32.
Of the Poſitive meaſures of Examples, and which may be ſafely followed. 387
33.
Why the Law of Moſes conſiſted of Negatives all but one. ibid.
34.
In what caſes the ſtricter ſenſe of the Laws of Chriſt is to be followed. 432
35.
When the Laws of Chriſt are to be expounded to a ſenſe of eaſe and liberty. 433
35.
Who are truly and innocently weak and to be complied with. 437
37.
What are the notes of difference between counſels and commands Evangelicall. 452
38.
Whether we are to require from Scripture a warrant for every action we doe in common life. 454
39.
Whether in matters of religion we may uſe any thing for which we have no expreſs word in Scripture. 457
40.
Of Will-worſhip. ibid.
41.
What voluntary or uncommanded actions are lawful or commendable. 459
42.
Whether there be any, or what are thoſe rules by which we may diſcern tradition. 493
43.
Whether or no and how far a Negative argument from Scripture is to prevail. 501
44.
Whether there may be any new Articles of Faith, or that the Creed of the Church may ſo increaſe that what was ſufficient to ſalvation in one age cannot ſerve in another. 508
45.
At what time preciſely is every ſinner bound to repent of his Sins, ſo that if he does not repent at that time, he commits a new ſin. 523
46.
Whether a man is bound to repent not only the firſt time, but every time he thinks of his Sin. 537
47.
Whether the Cuſtoms of Jews or Gentiles or indifferently of many nations be a juſt preſumption, that the thing ſo practis'd is agreeable to the Law of Nature, or is any waies to be ſuppos'd to be conſonant to the will of God. 551

LIB. III.

48.
Whether the Laws of Men oblige the Conſcience. P. 3.
49.
Of Chriſtian Liberty. 17
50.
The difference of Divine and Humane Laws in their obligation. 23
51.
Whether Humane Laws can command or forbid inward actions. 41
52.
Whether it be lawfull to kill ones ſelf to prevent a cruell death inflicted by his Enemies. 72
53.
Whether in ſuffering the puniſhment annexed to penall Laws the Conſcience is diſcharged without repentance. 79
54.
Whether it can in any caſe be lawfull to tell a lie. 83
55.
Whether it be lawfull to uſe reſtrictions and mentall reſervations, ſo that what we utter is falſe, but joined with ſomething within does integrate a truth and make up an anſwer. 97

56.
Whether it be lawfull to equivocate or use words of doubtfull signification with a purpose to deceive, or knowing that they will deceive, and in what case it is so. 100

57.
Whether it be lawfull by false signs, by actions and pretences of action to deceive others for any good end, and in what cases it is so. 104

58.
Whether it be lawfull for a Christian to require of the Magistrate that his offending Brother may be punished. 114

59.
Whether it be lawfull for the supreme Prince or Magistrate to aliene his Princely rights, or to give away any parts of his Kingdome. 137

60.
Whether a Prince is subject to the Laws which he makes. 138

61.
What Laws they are from which a Prince is freed; what is the right or prerogative of the Supreme Power. 145

62.
Whether it be lawfull for Subjects to take up arms against the Supreme power. 150

63.
In what sense the service of God is to be preferred before every thing else. 180

64.
Which are to be preferred, and which are better, things spirituall or temporall. 183

65.
Whether are to be preferred, Spirituall or temporall persons. 186

66.
Whether the eminency of the spirituall calling, and the consequent prelation of spirituall persons can exempt them from secular coercion, and make them superiour to Princes. 188

67.
Whether is to be obeyed, the Prince or the Bishop, if they command contrary things. 191

68.
Whether in the civill affairs and causes of the Ecclesiasticall power and persons the presumption ought to lie for the King or for the Church. 198

69.
Whether the supreme Civill power hath authority to convene and dissolve Synods Ecclesiasticall. 203

70.
Whether the Supreme Civill power hath a power of externall judgment in matters of faith. 205

71.
Whether the Guides of Souls have a proper and spirituall power to enjoin Penances or Ecclesiasticall Satisfactions to a Prince that hath sinned publickly. 244

72.
Of the Lent Fast & the weekly fasting. 273

73.
The Lent Fast is not a Tradition or Canon Apostolicall. 275

74.
Whether Ecclesiastical Laws may be perpetuall. 303

75.
What persons are tied to the observation of Ecclesiasticall fasts, and in what cases. 317

76.
Of Musick in Churches. 329

77.
Of the Marriage of Bishops and Priests. 332

78.
Whether it can be lawfull to subscribe what he does not believe to be true. 358

79.
Whether it be lawfull for children to enter into any religious vow or state without the consent of their Parents. 378

80.
Whether they may lawfully marry without or against their parents consent. 381

81.
Of Exemption from the power of Fathers.

82. 390
Whether if the Grand-father be alive and the Son in his power, it be sufficient to legitimate the marriage of the Son, if the Grand-father consent, though the Father be not asked. 391

83.
Whether if the Parents have consented and authorized the treaty of marriage, till the affections of the children are irrevocably engaged, and afterwards recall their consent, the children are bound to obey their Parents. 392

84. VVhether

84.
Whether Mothers have the ſame authority over their children as their Fathers have. 393
85.
VVhether the power of Parents is ſuch that they can compell a Son or Daughter to marry whom or when they will. 394
86.
Whether the Law obliges no more, when its reaſon ceaſeth. 411
87.
Whether in ſome caſe the Subject is ſo quitted from the obligation of the Law that he may uſe his liberty without asking the will of the Superior. 417
88.
Whether the obligation of the Law doth extend it ſelf to all caſes that have the ſame or an equall reaſon, though the caſe be not comprehended directly in the Law. 419
89.
Whether it be a juſt and prudent cauſe to take a thing quite away becauſe it has been abuſed. 432
90.
Whether every action of our life ought to be directed by a right Conſcience, or a well-perſwaded will: Or, Are not ſome Actions, not only in their whole kind, but in their Circumſtances and Limitations alſo, merely indifferent? 444
91.
Whether is it neceſſary that for the doing of good we have an expreſs act of volition? that is, May not the will be indifferent, though the actions are not? 450
92.
Upon whom doth the greater portion of the guilt lie, upon him that commands a ſin, or him that ſins in obedience? 458
93.
How farre it can be lawfull to permit a ſin. 464
94.
Whether to make and provide the inſtruments which uſually miniſter to ſin, makes us alſo guilty. 467
95.
Whether it be lawfull to play at Cards or Dice. 469
96.
Whether the Sin of the Action be diſtinct from that of the Affection. 481
97.
Of the identity and diverſity reſpectively of actions internall and externall, and the multiplication of ſins by them. 483
98.
What degrees of guiltineſs are contracted by the beginnings and deſires of wickedneſs which are imperfect and unfiniſhed. 486
99.
Whether a mad man may be puniſhed for a fact he did in his health. 491
100.
Of what things a man may be innocently ignorant, and what not. 494
101.
What diligence is neceſſary that our ignorance may be innocent. 496
102.
What is a probable ignorance. 497
103.
Whether drunkenneſſe does excuſe, or extenuate, or aggravate the crimes which it occaſions. 505
104.
What morality is in thoſe actions which are done by a man that is abuſed into ignorance by the fraud of another. 509
105.
Whether it be lawfull to ſerve God for any end leſs then himſelf, for riches, honour, &c. 523
106.
In what ſenſe it is true that God muſt be ſerved purely for his own ſake, and vertue purſued for vertues ſake. 524

QUESTIONS
more briefly handled.

1. *VVHether a man can be wholly without Conſcience.* lib. 1. cap. 1. rul. 1. n. 5.
2. *From whence Conſcience hath the power to torment a man.* l. 1. c. 1. r. 2. n. 18. p. 20.
3. *Why is the Conſcience more afraid in ſome ſins then others?* l. 1. c. 1. r. 2. n. 21. p. 21.
4. *Whether Eccleſiaſticks ever ought to leave one Church for another.* l. 1. c. 1. r. 5. n. 23. p. 69.

5. *Whether it be lawfull to use* argumenta ad hominem. l.1.c.2.r.6.n.10.p.75.

6. *Whether a Conscience invincibly erring is to be obeyed against the known commands of our Superiour.* l.1.c.3.r.6.p.114.

7. *Whether the Error of a Conscience may be laid down upon an argument less probable then that which first produced the error.* l.1.c.3.r.7.n.2.p.116.

8. *Whether a morall demonstration be a sufficient ground of certainty in duties.* l.1.c.4.r.2.n.2.p.121.

9. *Whether when two probable opinions are practically compared, it is lawfull to reject that which is more probable.* l.1.c.4.r.5.n.3.p.148.

10. *Whether when two opinions seem equally probable, the understanding ought to chuse neither.* l.1.c.4.r.6.n.1.p.150.

11. *Whether the lesser evil in respect of the greater hath the nature of good, and whether it may be lawfully chosen, if necessity force to chuse one.* l.1.c.5.r.8.n.25.p.199.

12. *Whether the Christian Law be a collected body of the Laws of Nature.* l.2.c.1.r.1.n.40.p.235.

13. *Whether it be lawfull to serve God with intuition of reward.* l.2.c.1.r.4.n.9.p.250.

14. *Whether the Divine power can dispense with the Law of Nature.* l.2.c.1.r.9.p.263.

15. *How God dispenseth with his Laws.* l.2.c.1.r.9.n.3.p.264.

16. *What Laws of Nature can be dispensed with.* l.2.c.1.r.9.n.10.p.267.

17. *Whether it be rightly said*, Per Jus Gentium & Civile aliquid detrahitur de Jure Naturali. l.2.c.1.r.10.n.2.p.269.

18. *Whether the Pope can dispense with the Law of Nature.* l.2.c.1.r.10.n.9.p.271.

19. *Whether Abraham were brother to Sarah.* l.2.c.2.r.3.n.31.p.300,305.

20. *What is meant* Levit. xviii. 6. *by*, None of you; and, Near of kin to you. l.2.c.2.r.3.n.36,39.p.302.

21. *Whether Christ gave any new precepts which were not in the Mosaicall Digest.* 319.

22. *Whether that which we call the second Commandment be a distinct Commandment, or an explication only of the first.* 325.

23. *Whether it is well to divide the tenth Commandment into two.* 327.

24. *Whether it be lawfull to make an image.* 330.

25. *Whether Spirituall persons should be exempt from Secular Jurisdiction.* l.2.c.2.r.6.n.67.p.368.

26. *Whether an example out of the Old Testament be sufficient warrant for us.* l.2.c.2.r.7.n.26.p.380.

27. *Whether in the Law of Moses, the Affirmative Laws are included in the Negative.* l.2.c.3.r.1.n.7.p.391.

28. *Whether the Arguments of an old Heretick new made use of still increase the account of the first sin.* l.2.c.3.r.4.n.6.p.404.

29. *Whether marriage be an universall Commandment.* l.2.c.3.r.9.n.2.p.420.

30. *Whether the Lords Supper be to be administred to all in both kinds.* l.2.c.3.r.9.n.5.p.421.

31. *Whether in the Holy Eucharist whole Christ be received under each kind.* l.2.c.3.r.9.n.26.p.427.

32. *Whether the blood is received in the Bread by concomitance.* l.2.c.3.r.9.n.26.p.429.

33. *Whether a power of dispensing with the positive laws of Christ be intrusted with any man or society of men, to the Pope or any other.* l.2.c.3.r.11.n.6.p.441.

34. *Whether it be lawfull to break the vow and bonds of marriage to enter into a religious house.* l.2.c.3.r.11.n.9.p.443.

35. *Whether a Supplie of duty is to be made in any case, or, whether it be not better in some cases to doe something of the duty then nothing when we cannot doe all.* l.2.c.3.r.11.n.17.p.446.

36. *Whether it be as great a sin to teach for necessary doctrines the prohibitions of men as the injunctions.* l.2.c.3.r.13.n.20.p.463.

37. *What Superstition is.* l.2.c.3.r.13.n.26.p.466.

38. *Whether the Sacrifice of Abel was will-worship.* l.2.c.3.r.13.n.27.p.467.

39. *Whether*

39. *Whether whatsoever is taught us by naturall reason is bound upon us by a naturall law.* l.2.c.3.r.13.n.28.p.467. & c.1.r.1.n.30.p.230.

40. *Whether the Holy Scriptures contain the whole will of God.* l.2.c.3.r.14.n.2.p.473.

41. *What is the use of Traditions.* l.2.c.3.r.14.n.13.p.483.

42. *Whether Tradition after the consignation of the Canon of Scriptures be of any use in Questions of Faith or manners.* l.2.c.3.r.14.n.23.p.487.

43. *Whether Traditions can be proved out of Scripture.* l.2.c.3.r.14.n.38.p.494.

44. *Whether the belief of the Catholick Church is a sufficient argument to prove a Tradition to be Apostolicall.* l.2.c.3.r.14.n.39.p.495.

45. *Whether a Council or the Doctors of the Church can give sufficient Authority to Tradition.* l.2.c.3.r.14.n.42.p.499.

46. *What Authority an uninterrupted Succession from Apostolicall men can give to a Tradition.* l.2.c.3.r.14.n.43.p.500.

47. *Whether it be lawfull to defer Baptisme till near death.* l.2.c.3.r.16.n.1.p.521.

48. *Whether a man be bound to weep as often as he thinks of his sin.* l.2.c.3.r.16.n.36.p.539.

49. *Whether the Bishop that ordeins, or he that is ordeined, or they that chuse do sin, if the Bishop be unfit.* l.2.c.3.r.18.n.1.p.547.

50. *Whether Christian Liberty extend to the freeing from all humane Laws made concerning ceremonies.* l.3.c.1.r.1.n.28.p.18.

51. *Whether Humane Laws bind to their observation with the danger of life.* l.3.c.1.r.2.n.2.p.27.

52. *Whether a Law that binds under pain of mortall sin does also bind to obedience though death attend it.* l.3.c.1.r.2.n.10.p.28.

53. *When the Supreme power can bind to the observation of his Laws though with danger of death.* l.3.c.1.r.2.n.12.p.29.

54. *Whether Laws have their binding power from the consent of the people.* l.3.c.1.r.7.n.5.p.47.

55. *Whether when a Law is refused by the greater part of the people, single persons are excused.* l.3.c.1.r.7.n.9.p.49.

56. *Whether for a lawfull Magistrate to put a malefactor to death* flagrante crimine *be against charity.* l.3.c.2.r.1.n.4.p.54.

57. *Whether a lie may be told to another for the benefit of a third person.* l.3.c.2.r.5.n.12.p.87.

58. *Whether a lie may be told to save ones good name and prevent disgrace.* l.3.c.2.r.5.n.17.p.92.

59. *Whether a Generall may tell a lye and use stratagems.* l.3.c.2.r.5.n.19.p.93.

60. *Whether a Prince is to be accounted a private person, when he proceeds not according to the sentence and methods of Law.* l.3.c.2.r.6.n.11.p.111.

61. *Whether Judiciall duells are lawfull.* l.3.c.2.r.6.n.12.p.112.

62. *Whether it be lawfull for Christians to goe to law one with another.* l.3.c.2.r.6.n.18.p.115.

63. *Whether it be lawfull to punish one for another of persons conjoined by Contract.* l.3.c.2.r.7.n.5.p.118.

64. *Whether it be lawfull to imprison or torment insolvent Debtors.* l.3.c.2.r.7.n.5.p.118.

65. *Whether persons affianced by Nature may be lawfully punished one for another.* l.3.c.2.r.7.n.11.p.121.

66. *Whether persons affianced by Crime may be punished one for another.* l.3.c.2.r.7.n.12.p.122.

67. *Whether it be unlawfull to deny tribute on pretence it is unjust.* l.3.c.2.r.10.n.3.p.128.

68. *What the Bishops are to doe, if the Civill power forbid that any invocation of the H. Ghost be made in the publick Liturgies.* l.3.c.3.r.6.n.29.p.196.

69. *Whether it be lawfull for the Spirituall power by spirituall censures to punish those actions which the Civil power permits.* l.3.c.3.r.6.n.32.p.197.

70. *How to know which is the Accessory and which the Principall.* l.3.c.4.r.4.n.6.p.227.

71. *Whether*

71. *In what ſenſe the Acceſſory does follow the nature of the Principall.*
l.3. c.4. r.4. n.12. p.229.

72. *Whether the Biſhops can give Laws which properly and immediately bind the tranſgreſſors under ſin.*
l.3. c.4. r.4. n.23. p.233.

73. *In what caſes Excommunication may be lawfully inflicted.*
l.3. c.4. r.9. n.6. p.257.

74. *VVhether ſuch ſentences in Law as declare a man Excommunicate* ipſo facto *be unlawfull.* l.3. c.4. r.9. n.11,12. p.259.

75. *VVhat is meant by that word of our Saviours,* teaching for doctrines the Commandments of men.
l.3. c.4. r.17. n.8. p.303.

76. *VVhether Biſhops and Prieſts may marry after Ordination.*
l.3. c.4. r.20. n.24. p.343.

77. *When the Law expreſly names the puniſhment, whether there can be any relief by Equity or Interpretation.*
l.3. c.6. r.1. n.17. p.406.

78. *VVhether a Cuſtome can abrogate a Law.* l.3. c.6. r.6. n.4,5,6,7. p.429.

79. *VVhether the VVill be free in it's actions.* l.4. c.1. r.1. n.2,3. p.440.

First Volume Contains

Book First,

OF CONSCIENCE IN GENERAL,

viz. *the Right, Confident or Erroneous, Probable or Thinking, Doubtfull and Scrupulous Conſcience.* (Page 1.

Second Book,

OF LAWS DIVINE,

viz. *the Laws of Nature, Moſes and Chriſt, and all Collateral Obligations.* (pag. 220.

Second Volume Contains

Book Third,

OF HUMANE LAWS,

Their Obligation and Relaxation, and of the Collaterall, Indirect and Accidental bands of Conſcience. (pag. 1.

Book Fourth,

Of The NATURE And CAUSES Of GOOD And EVIL,

Their Limits and Circumſtances, Aggravations and Diminutions. (pag 437.

R. Lombart. sculpsit
NON MAGNA LOQ
VIMVR. SED VIVIMVS
NIHIL OPINIONIS
GRATIA. OMNIA
CONSCENTIÆ
FACIAM

DVCTOR DVBITANTIVM,
OR,
The Rule of Conſcience.

THE FIRST BOOK.

Of Conſcience, the kindes of it, and the general Rules of conducting them.

CHAP. I.
The Rule of Conſcience in general.

RULE I.

Conſcience is the minde of a Man governed by a Rule, and meaſured by the proportions of good and evil, in order to practice; *viz.* to conduct all our relations, and all our entercourſe between God, our Neighbours, and our Selves: that is, in all moral actions.

GOD governs the world by ſeveral attributes and emanations from himſelf. The nature of things is ſupported by his power, the events of things are ordered by his providence, and the actions of reaſonable creatures are governed by Laws, and theſe Laws are put into a mans ſoul or minde as into a Treaſury or Repoſitory: ſome in his very nature, ſome by after actions, by education and poſitive ſanction, by learning and cuſtome: ſo that it was well ſaid of S. *Bernard*, *Conſcientia candor eſt lucis æternæ, & ſpeculum ſine macula Dei Majeſtatis, & imago bonitatis illius.* Conſcience is the brightneſs and ſplendor of the eternal light, a ſpotleſs mirror of the Divine Majeſty, and the image of the goodneſs of God. It is higher which *Tatianus* ſaid of Conſcience, μόνον τὸ συνείδησιν Θεὸν, *Conſcience is God unto us*; which ſaying he had from *Menander*,

§. 1.

Lib. de interiori domo.

βεβηλοῖς ἅπασι συνείδησις Θεὸς,

and it had in it this truth, That God who is every where in ſeveral manners, hath the *appellative* of his own attributes and effects in the ſeveral manners of his preſence.

Jupiter eſt quodcunque vides, quocunque moveris.

2. That providence which governs all the world is nothing else but God present by his providence: and God is in our hearts by his Laws: he rules in us by his *Substitute* our conscience. *God* sits there and gives us laws; and as God
Exod. 7. 1. said to *Moses*, *I have made thee a God to Pharaoh*, that is, to give him Laws, and to minister in the execution of those Laws, and to inflict angry sentences upon him; so hath God done to us. He hath given us *Conscience* to be in Gods stead to us, to give us Laws, and to exact obedience to those Laws, to punish them that prevaricate, and to reward the obedient. And therefore *Conscience* is called οἰκεῖος φύλαξ, ἔνοικος Θεός, ἔπιτοπος δαίμων, *The Houshold Guardian, The Domestick God, The Spirit or Angel of the place*: and when we call God to witness, we onely mean, that our conscience is right, and that God
Lib. 6. de vero cultu. cap. 24. and Gods Vicar, our conscience knows it. So *Lactantius*: *Meminerit Deum se habere testem, id est, ut ego arbitror, mentem suam, quâ nihil homini dedit Deus ipse divinius.* Let him remember that he hath God for his witness, that is, as I suppose, his mind; then which God hath given to man nothing that is more divine. In summe, *It is the image of God*; and as in the mysterious *Trinity*, we adore the *will*, *memory* and *understanding*, and *Theology* contemplates *three persons* in the *analogies*, *proportions* and *correspondencies* of them: so in this also we see plainly that *Conscience* is *that likeness of God* in which he was pleased to make man. For although conscience be primarily founded in the understanding, as it is the *Lawgiver*, and *Dictator*; and the rule and dominion of conscience, *fundatur in intellectu*, is established in the *understanding* part; yet it is also *Memory*, when it *accuses* or *excuses*, when it makes joyful and sorrowful; and there is in it some mixture of *will*, as I shall discourse in the sequel; so that conscience is a result of all, *of Understanding*, *Will*, and *Memory*.

3. But these high and great expressions are better in the Spirit then in the letter; they have in them something of institution, and something of design, they tell us that Conscience is a guard and a guide, a rule and a law set over us by God, and they are spoken to make us afraid to sin against our conscience, because by so doing we sin against God; he having put a double bridle upon us, *society* and *solitude*, that is, *company*, and *our selves*, or rather, *God* and *Man*; it being now impossible for us to sin in any circumstances, but we shall have a reprover: ἵνα μήτε μάρωσις ἐπεγείρῃ σε πρὸς ὃ μὴ πρέπον, μήτε ἡσυχία ἐναποδέχηται σε πρὸς τὸ ἁμαρτεῖν, as *Hierocles* said well; that neither *company* may give *countenance* or *excuse* to sin, or *solitariness* may give *confidence* or *warranty*; for as we are ashamed to sin in company, so we ought to fear our conscience, which is Gods *Watchman* and *Intelligencer*.

4. To which purpose it was soberly spoken of *Tertullian*, *Conscientia optima*
Lib. de testimon. animæ. *testis Divinitatis*: our conscience is the best argument in the world to prove there is a God: For conscience is Gods deputy; and the inferiour must suppose a superiour; and God and our conscience are like relative terms, it not being imaginable why some persons in some cases should be amaz'd and troubled in their minds for their having done a secret turpitude, or cruelty; but that conscience is present with a message from God, and the men feel inward causes of fear, when they are secure from without; that is, they are forc'd to fear God, when they are safe from men. And it is impossible that any man should be an Atheist, if he have any conscience: and for this reason it is, there have been so few Atheists in the world, because it is so hard for men to lose their conscience wholly.

Question.

Queſt.

5. SOme diſpute whether it be poſſible or no for any man to be totally without conſcience. *Tertullians* ſentence in this article is this, *Poteſt obumbrari quia non eſt Deus: extingui non poteſt quia à Deo eſt.* It is not God, and therefore may be clouded: but it is from God, and therefore cannot be deſtroyed. But I know a man may wholly loſe the uſe of his reaſon; ſome men are mad, and ſome are natural fools, and ſome are ſots, and ſtupid; ſuch men as theſe loſe their *conſcience*, as they loſe their *reaſon:* and as ſome mad men may have a fancy that there is no Sun; ſo ſome fools may ſay there is no God; and as they can believe that, ſo they can loſe their conſcience, and believe this. But as he that hath reaſon or his eyes cannot deny but there is ſuch a thing as the Sun, ſo neither can he that hath conſcience deny there is a God. For as the Sun is preſent by his light which we ſee daily, ſo is God by our conſcience which we feel continually: we feel one as certainly as the other.

6. But it is to be obſerved, that conſcience is ſometimes taken for the *practical intellective* faculty; ſo we ſay the law of nature, and the fear of God is *written in the conſcience* of every man.

2. Sometimes it is taken for the habitual perſwaſion and belief of the principles written there; ſo we ſay, He is a good man, and *makes conſcience of his ways.* And thus we alſo ſay, and it is true, that a wicked perſon is of a profligate and *loſt conſcience.* He *hath no conſcience in him.* That is, he hath loſt the habit, or that uſual perſwaſion and recourſe to conſcience by which good men govern their actions.

3. Or the word conſcience is uſed effectively, for any ſingle operation and action of conſcience: ſo we ſpeak of particulars, *I make a conſcience of taking up arms* in this cauſe. Of the firſt and laſt acceptation of the word Conſcience, there is no doubt; for the *laſt may*, and the *firſt can never* be loſt: But for the *ſecond* it may be loſt more or leſs, as any other habit can; though this with more difficulty then any thing elſe, becauſe it is founded ſo immediately in nature, and is ſo exerciſed in all the actions and entercourſes of our life, and is ſo aſſiſted by the grace of God, that it is next to impoſſible to loſe the habit intirely; and that faculty that ſhall to eternal ages doe the offices which are the laſt, and ſuch as ſuppoſe ſome preceding actions, I mean to torment and afflict them for not having obeyed the former acts of dictate and command, cannot be ſuppoſed to die in the principle, when it ſhall be eternal in the emanation; for *the worm ſhall never die.*

7. For, that men doe things againſt their conſcience, is no otherwiſe then as they doe things againſt their reaſon; but a man may as well ceaſe to be a man, as to be wholly without conſcience. For the drunkard will be ſober, and his conſcience will be awake next morning: This is a perpetual pulſe, and though it may be interrupted, yet if the man be alive, it will beat before he dies; and ſo long as we beleeve a God, ſo long our conſcience will at leaſt teach us, if it does not alſo ſmite us: But as God ſometimes lets a man go on in ſin and does not puniſh him, ſo does conſcience; but in this caſe, unleſs the man be ſmitten and awakened before he dies, both God & the conſcience reſerve their wrath to be inflicted in hell. It is one and the ſame thing; *Gods wrath, and an evil guilty conſcience:* For by the ſame hand by which God gives his law, by the ſame he puniſhes them that tranſgreſs the law. God gave the old law *by the miniſtery of Angels*, and when the people broke it, *he ſent evil angels among them;* Pſal. 78. 49.

them; now God gives us a law in our conſciences, and there he hath eſtabliſhed the penalty; This is the *worm that never dies*; let it be trod upon never ſo much here, it will turn again. It cannot die here, and it ſhall be alive for ever.

But by explicating the parts of the Rule, we ſhall the beſt underſtand the Nature, Uſe, and Offices of Conſcience.

Conſcience is the minde of a Man——

7. When God ſent the B. Jeſus into the world to perfect all righteouſneſs, and to teach the world all his Fathers will, it was ſaid, and done, *I will give my laws in your hearts, and in your mindes will I write them*; that is, you ſhall be governed by the law of natural and eſſential equity and reaſon, by that law which is put into every mans nature: and beſides this, whatſoever elſe ſhall be ſuperinduc'd ſhall be written in your minds by the Spirit, who ſhall write all the laws of Chriſtianity in the Tables of your conſciences. He ſhall make you to underſtand them, to perceive their reliſh, to remember them becauſe you love them, and becauſe you need them, and cannot be happy without them: he ſhall call them to your minde, and inſpire new arguments and inducements to their obſervation, and make it all as naturall to us, as what we were born with.

Heb. 10. 16. Jer. 31. 33.

8. Our minde being thus furniſhed with a holy Rule, and conducted by a divine Guide, is called *Conſcience*; and is the ſame thing which in Scripture is ſometimes called, *The heart**; there being in the Hebrew tongue, no proper word for *Conſcience*, but in ſtead of it they uſe the word לֵבָב *the heart*; *Oftententimes alſo thine own heart knoweth*, that is, thy conſcience knoweth, that thou thy ſelf haſt curſed others: ſo in the New Teſtament, *Beloved, if our hearts condemne us not, then have we peace towards God*; *viz.* If in our own conſciences we are not condemned. Sometimes it is called *Spirit**, the third ingredient of the conſtitution of a Chriſtian; the *Spirit*, diſtinct from *Soul* and *Body*. For as our Body ſhall be ſpiritual in the reſurrection, therefore becauſe all its offices ſhall *intirely* miniſter to the ſpirit, and converſe with ſpirits, ſo may that part of the ſoul which is wholly furniſhed, taught and conducted by the ſpirit of grace, and whoſe work it is wholly to ſerve the ſpirit, by a juſt proportion of reaſon be called *the Spirit*. This is that which is affirmed by S. *Paul*, *The word of God ſharper then a two edged ſword, dividing the ſoul and the ſpirit*; that is, the ſoul is *the ſpirit* ſeparated by the word of God, inſtructed by it, and by relation to it, is called, *the ſpirit*. And this is the ſenſe of *Origen*, *Teſtimonio* "*ſanè conſcientiæ uti Apoſtolus dicit eos qui deſcriptam continent in cordibus legem, &c. The Apoſtle ſays, that they uſe the teſtimony of conſcience, who have the* "*law written in their hearts. Hence it is neceſſary to enquire what that is which the* "*Apoſtle cals conſcience, whether it be any other ſubſtance then the heart or ſoul?* "*For of this it is otherwhere ſaid, that it reprehends, but is not reprehended, and* "*that it judges a man, but it ſelf is judged of no man: as* John *ſaith, If our con-*"*ſcience condemne us not, then have we confidence towards God. And again,* Paul "*himſelf ſaith in another place, Our glorying is this, even the teſtimony of our con-*"*ſcience; becauſe therefore I ſee ſo great a liberty of it, that in good things it is* "*always glad and rejoyces, but in evil things it is not reproved, but reproves and* "*corrects the ſoul it ſelf to which it does adhere: I doe ſuppoſe that this is the* "*very ſpirit which by the Apoſtle is ſaid to be with the ſoul, as a pædagogue and*

"*ſocial*

* Eccleſ. 7. 22. 1 John 3. 21.

Apud Syros conſcientia dicitur תארא à radice תאר formavit, depinxit, deſcripſit; quia ſcil. conſcientia notat & pingit actiones noſtras in tabula cordis.

* Prov. 18. 14.

Heb. 4. 12.

In epiſt. ad Rom. cap. 2. lib. 2.

"*ſocial Governour, that it may admoniſh the ſoul of better things, and chaſtiſe her*
"*for her faults and reprove her: Becauſe no man knows the things of a man but*
"*the ſpirit of a man which is in him; and that is the ſpirit of our conſcience, con-*
"*cerning which, he ſaith, That ſpirit gives teſtimony to our ſpirit.* So far *Origen.*

9. Thus, Conſcience is the *Minde*, and God *writing his laws in our mindes* is, informing our conſcience, and furniſhing it with laws and rules, and meaſures, and it is called by S. *Paul*, νόμος τοῦ νοός, *the law of the minde*; and though it is once made a diſtinct thing from the minde (as in thoſe words, *Their mindes and conſciences are defiled*) yet it happens in this word as in divers others, that it is ſometimes taken largely, ſometimes ſpecifically and more determinately: The *minde* is all the whole underſtanding part, it is the *memory*; ſo *Peter called to minde the word that Jeſus ſpake*, that is, he remembred it. It is, the *ſignification* or *meaning*, the *purpoſe* or *reſolution*. *No man knoweth the minde of the ſpirit, but the ſpirit.* It is the diſcurſive or reaſoning part; *Mary caſt in her minde what manner of ſalutation this ſhould be.* It is the aſſenting and determining part; *let every man be fully perſwaded in his own minde:* and it is alſo taken for *Conſcience*, or that Treaſure of rules which are in order to practice. And therefore when S. *Paul* intended to expreſs the anger of God puniſhing evil men with evil conſciences and falſe perſwaſions in order to criminal actions and evil worſhippings, he ſaid, *God gave them over* εἰς νοῦν ἀδόκιμον, *to a reprobate minde*, that is, to a conſcience evil perſwaded, furniſhed with falſe practical principles; but the return to holineſs, and the improvement of a holy conſcience is called, *a being renewed in the ſpirit of our minde*, ἀνακαίνωσις τοῦ νοός, *the renovation of the minde.*

Rom. 7. 23. Titus 3. 15. Marc. 14. 72. Philip. 2. 5. 1 Cor. 2. 16. Luc. 1. 29. Rom. 14. 5. Rom. 1. 28. Epheſ 4. 23. Rom. 12. 2.

10. Now there are two ways by which God reigns in the *minde* of a man, 1. *Faith*, and 2. *Conſcience*. *Faith* contains all the treaſures of Divine knowledge and ſpeculation. *Conſcience* is the treaſury of divine Commandements and rules in practical things. *Faith* tells us *why*; *Conſcience* tells us *what* we are to doe. *Faith* is the meaſure of our *perſwaſions*; *Conſcience* is the meaſure of our *actions*. And as *Faith* is a gift of God, ſo is *Conſcience*; that is, as the underſtanding of a man is taught by the Spirit of God in Scripture, what to beleeve, how to diſtinguiſh truth from errors; ſo is the *Conſcience* inſtructed to diſtinguiſh good and evil, how to pleaſe God, how to doe juſtice and charity to our neighbour, and how to treat our ſelves; ſo that when the revelations of Chriſt and the Commandements of God are fully recorded in our mindes, then we are *perfectly inſtructed to every good work.*

Governed by a Rule ——

11. S. *Bernard* comparing the *Conſcience* to a houſe, ſays it ſtands upon ſeven pillars. 1. Good will. 2. Memory of Gods benefits. 3. A clean heart. 4. A free ſpirit. 5. A right ſoul. 6. A devout minde. 7. An enlightned reaſon. Theſe indeed are ſome of them the fruits and effects, ſome of them are the annexes and appendages of *a good conſcience*, but not the foundations or pillars upon which Conſcience is built. For as for the firſt

De interiori domo cap. 7.

Good will.

12. Conſcience relies not at all upon the will *directly*. For though a *Conſcience* is *good*, or *bad*, *pure* or *impure*; and ſo the Doctors of *Myſtick Theology* divide and handle it, yet a conſcience is not made ſo by the *will*, *formally*, but by

the *understanding*. For that is *a good conscience*, which is rightly taught in the word of life; that is *impure and defiled*, which hath entertained evil and ungodly principles; such is theirs, who follow false lights, evil teachers, *men of corrupt minds*. For the *conscience* is a *Judge* and a *Guide*, a *Monitor* and a *Witness*, which are offices of the *knowing*, not of the *choosing* faculty. *Spiritum correctorem, & pædagogum animæ*, so *Origen*[a] calls it. *The instructor of the soul, the spirit, the corrector. Naturale judicatorium*, or *naturalis vis judicandi*, so S. *Basil*. *The natural power of judging*, or *natures judgement seat*. *Lucem intellectus nostri*, so *Damascen* calsit, *The light of our understanding*. The conscience does accuse or excuse a man before God, which the will cannot. If it could, we should all stand upright at doomesday, or at least those would be acquitted, who fain would doe well, but miss, who do the things they love not, and love those they doe not; that is, *they who strive to enter in, but shall not be able*. But to accuse or excuse is the office of a faculty which can neither will nor choose, that is, of the conscience; which is properly a record, a book, and a judgement seat.

[a] Ubi sup. In Psal. 48.

13. But I said, *Conscience relies not upon the will* [*directly*] yet it cannnot be denied, but the *will* hath force upon the conscience *collaterally* and *indirectly*. For the evil will perverts the understanding, and makes it beleeve false principles; *deceiving and being deceived* is the lot of false Prophets; and they that are *given over to beleeve a lie*, will live in a lie, and doe actions relative to that false doctrine which evil manners first perswaded and introduc'd. For although it cannot be that Hereticks should sin in the article against the actual light of their consciences, because he that wittingly and willingly sins against a known truth is not properly a *Heretick* but a *Blasphemer*, and sins against the Holy Ghost; and he that sees a Heretick run to the stake or to the gallows, or the *Donatist* kill himself, or the *Circumcellian* break his own neck with as much confidence to bear witness to his heresie, as any of the blessed Martyrs to give testimony to Christianity it self, cannot but think he heartily beleeves, what so willingly he dies for; yet either hereticks do sin voluntarily, and so distinguish from simple errors, or else they are the same thing, and either every simple error is damnable, or no heresie. It must therefore be observed, that

14. The will of man is cause of its actions either *mediately* or *immediately*. Some are the next products of our will; such are *Pride*, *Ambition*, *Prejudice*, and these blinde the understanding, and make an evil and a corrupted conscience, making it an incompetent judge of truth and error, good and evil. So that the corruption of conscience in a heretick is voluntary in the principle, but miserable and involuntary in the product; it may proceed from the will *efficiently*, but it is *formally* a depravation of the understanding.

15. And therefore our wils also must be humble and apt, and desirous to learn, and willing to obey. *Obedite & intelligetis*, by humility and obedience we shall be best instructed. Not that by this means the conscience shall receive direct aids, but because by this means it will be left in its own aptnesses and dispositions, and when it is not hindred, the word of God will enter and dwel upon the conscience. And in this sense it is that some say that [*Conscience is the inclination and propension of the will corresponding to practical knowledge*] *Will* and *Conscience* are like the *cognati sensus*, the *Touch* and the *Tast*; or the *Teeth* and the *Eares*, affected and assisted by some common objects, whose effect is united

united in matter and ſome reall events, and diſtinguiſhed by their formalities, or metaphyſical beings.

2. *Memory of Gods benefits,*

16. Is indeed a good ingagement to make us dutiful, and ſo may incline the will; but it hath no other force upon the conſcience but that it re-minds us of a ſpecial obligation to thankfulneſs, which is a new and proper tie of duty; but it works onely by a principle that is already in the conſcience, *viz. that we are ſpecially oblig'd to our gracious lords*; and the obedience that is due to *God* as our *lord* doubles upon us by love and zeal when we remember him to be our bountiful Patron, and our gracious Father.

3. *A clean heart,*

17. May be an effect and emanation from a holy *Conſcience*; but *conſcience* in it ſelf may be either good or bad, or it may be good when the heart is not clean, as it is in all the worſt men who actually ſin againſt conſcience, doing that which conſcience forbids them. In theſe men the principles are holy, the inſtruction perfect, the law remaining, the perſwaſions uncancell'd; but againſt all this torrent, there is a whirlwinde of paſſions and filthy reſolutions, and wilfulneſs, which corrupt the heart, while as yet the head is uncorrupted in the direct rules of conſcience. But yet ſometimes a clean conſcience and a clean heart are the ſame; and a good conſcience is taken for holineſs, ſo S. *Paul* uſes the word, *holding faith and a good conſcience, which ſome having put away have made ſhipwrack*, ὅτι τ θεοθεν ἠκυσαν συνειδησιν ἀπιςια κατεμιαναν, ſo *Clemens Alexandrinus* explicates the place; they have by infidelity polluted their divine and holy conſcience: but S. *Paul* ſeems to argue otherwiſe, and that they laying aſide a good conſcience fell into infidelity; their hearts and conſcience were firſt corrupted, and then they turn'd hereticks. But this ſenſe of a good conſcience is that which in *Myſtick Divinity* is more properly handled, in which ſenſe alſo it is ſometimes uſed in the law. *Idem eſt conſcientia quod vir bonus intrinſecè*, ſaid *Ungarellus* [a] out of *Baldus* [b]; and from thence *Aretine* [c] gathered this concluſion, that *if any thing be committed to the conſcience of any one, they muſt ſtand to his determination & ab eâ appellari non poteſt; there lies no appeal, quia vir bonus pro quo ſumitur conſcientia non poteſt mentiri & falſum dicere vel judicare.* A good man, for whom the word *conſcience* is uſed, cannot lie, or give a falſe judgement or teſtimony: of this ſort of conſcience it is ſaid by *Ben Sirach*, *Bonam ſubſtantiam habet cui non eſt peccatum in conſcientiâ.* It is a mans wealth to have no ſin in our conſcience. But in our preſent and future diſcourſes, the word *conſcience* is underſtood in the Philoſophical ſenſe, not in the Myſtical, that is, not for the conſcience as it is inveſted with the accidents of good or bad, but as it abſtracts from both, but is capable of either.

1 Tim. 1. v. 19.

[a] Verb. Conſcientia.
[b] In c. cum cauſa de Teſtib.
[c] In S. fidelis. Inſtit. de Act. Gl. in c. Statut. S. aſſeſſ. detent.
Eccluſ. 13. 30. alias 24.

4. *A free ſpirit,*

18. Is the bleſſing and effect of an obedient will to a well inſtructed conſcience, and more properly and peculiarly to the grace of chaſtity, to honeſty and ſimplicity; a ſlaviſh, morous, a childiſh and a trifling ſpirit being the puniſhment inflicted upon *David* before he repented of his fact with *Bathſheba*. But there is alſo a freedom which is properly the privilege, or the affection of conſcience, and is of great uſefulneſs to all its nobler operations; and that is, a being clear from prejudice and prepoſſeſſion, a purſuing of truths with holy purpoſes, an inquiring after them with a ſingle eye, not infected with any ſickneſs or unreaſonableneſs. This is the ſame thing with that which he diſtinctly

cals

the *understanding*. For that is *a good conscience*, which is rightly taught in the word of life; that is *impure and defiled*, which hath entertained evil and ungodly principles; such is theirs, who follow false lights, evil teachers, *men of corrupt minds*. For the *conscience* is a *Judge* and a *Guide*, a *Monitor* and a *Witness*, which are offices of the *knowing*, not of the *choosing* faculty. *Spiritum correctorem, & pædagogum animæ*, so *Origen*[a] calls it. *The instructor of the soul, the spirit, the corrector. Naturale judicatorium*, or *naturalis vis judicandi*, so S. *Basil*. *The natural power of judging*, or *natures judgement seat. Lucem intellectus nostri*, so *Damascen* calls it, *The light of our understanding*. The conscience does accuse or excuse a man before God, which the will cannot. If it could, we should all stand upright at doomesday, or at least those would be acquitted, who fain would doe well, but miss, who do the things they love not, and love those they doe not; that is, *they who strive to enter in, but shall not be able*. But to accuse or excuse is the office of a faculty which can neither will nor choose, that is, of the conscience; which is properly a record, a book, and a judgement seat.

[a] Ubi sup. In Psal. 48.

13. But I said, *Conscience relies not upon the will* [*directly*] yet it cannnot be denied, but the *will* hath force upon the conscience *collaterally* and *indirectly*. For the evil will perverts the understanding, and makes it beleeve false principles; *deceiving and being deceived* is the lot of false Prophets; and they that are *given over to beleeve a lie*, will live in a lie, and doe actions relative to that false doctrine which evil manners first perswaded and introduc'd. For although it cannot be that Hereticks should sin in the article against the actual light of their consciences, because he that wittingly and willingly sins against a known truth is not properly a *Heretick* but a *Blasphemer*, and sins against the Holy Ghost; and he that sees a Heretick run to the stake or to the gallows, or the *Donatist* kill himself, or the *Circumcellian* break his own neck with as much confidence to bear witness to his heresie, as any of the blessed Martyrs to give testimony to Christianity it self, cannot but think he heartily beleeves, what so willingly he dies for; yet either hereticks do sin voluntarily, and so distinguish from simple errors, or else they are the same thing, and either every simple error is damnable, or no heresie. It must therefore be observed, that

14. The will of man is cause of its actions either *mediately* or *immediately*. Some are the next products of our will; such are *Pride*, *Ambition*, *Prejudice*, and these blinde the understanding, and make an evil and a corrupted conscience, making it an incompetent judge of truth and error, good and evil. So that the corruption of conscience in a heretick is voluntary in the principle, but miserable and involuntary in the product; it may proceed from the will *efficiently*, but it is *formally* a depravation of the understanding.

15. And therefore our wils also must be humble and apt, and desirous to learn, and willing to obey. *Obedite & intelligetis*, by humility and obedience we shall be best instructed. Not that by this means the conscience shall receive direct aids, but because by this means it will be left in its own aptnesses and dispositions, and when it is not hindred, the word of God will enter and dwel upon the conscience. And in this sense it is that some say that [*Conscience is the inclination and propension of the will corresponding to practical knowledge*] *Will* and *Conscience* are like the *cognati sensus*, the *Touch* and the *Tast*; or the *Teeth* and the *Eares*, affected and assisted by some common objects, whose effect is united

united in matter and ſome reall events, and diſtinguiſhed by their formalities, or metaphyſical beings.

2. *Memory of Gods benefits,*

16. Is indeed a good ingagement to make us dutiful, and ſo may incline the will; but it hath no other force upon the conſcience but that it re-minds us of a ſpecial obligation to thankfulneſs, which is a new and proper tie of duty; but it works onely by a principle that is already in the conſcience, *viz. that we are ſpecially oblig'd to our gracious lords*; and the obedience that is due to *God* as our *lord* doubles upon us by love and zeal when we remember him to be our bountiful Patron, and our gracious Father.

3. *A clean heart,*

17. May be an effect and emanation from a holy *Conſcience*; but *conſcience* in it ſelf may be either good or bad, or it may be good when the heart is not clean, as it is in all the worſt men who actually ſin againſt conſcience, doing that which conſcience forbids them. In theſe men the principles are holy, the inſtruction perfect, the law remaining, the perſwaſions uncancell'd; but againſt all this torrent, there is a whirlwinde of paſſions and filthy reſolutions, and wilfulneſs, which corrupt the heart, while as yet the head is uncorrupted in the direct rules of conſcience. But yet ſometimes a clean conſcience and a clean heart are the ſame; and a good conſcience is taken for holineſs, ſo S. *Paul* uſes the word, *holding faith and a good conſcience, which ſome having put away have made ſhipwrack*, ὅπ τ θεσθεν ἧκσαν συνειδησιν ἀπισια καπεμιαναν, ſo *Clemens Alexandrinus* explicates the place; they have by infidelity polluted their divine and holy conſcience: but S. *Paul* ſeems to argue otherwiſe, and that they laying aſide a good conſcience fell into infidelity; their hearts and conſcience were firſt corrupted, and then they turn'd hereticks. But this ſenſe of a good conſcience is that which in *Myſtick Divinity* is more properly handled, in which ſenſe alſo it is ſometimes uſed in the law. *Idem eſt conſcientia quod vir bonus intrinſecè*, ſaid *Ungarellus* [a] out of *Baldus* [b]; and from thence *Arctine* gathered this concluſion, that *if any thing be committed to the conſcience of any one, they muſt ſtand to his determination & ab eâ appellari non poteſt*; *there lies no appeal, quia vir bonus pro quo ſumitur conſcientia non poteſt mentiri & falſum dicere vel judicare.* A good man, for whom the word *conſcience* is uſed, cannot lie, or give a falſe judgement or teſtimony: of this ſort of conſcience it is ſaid by *Ben Sirach*, *Bonam ſubſtantiam habet cui non eſt peccatum in conſcientiâ.* It is a mans wealth to have no ſin in our conſcience. But in our preſent and future diſcourſes, the word *conſcience* is underſtood in the Philoſophical ſenſe, not in the Myſtical, that is, not for the conſcience as it is inveſted with the accidents of good or bad, but as it abſtracts from both, but is capable of either.

1 Tim. 1. v. 19.

[a] Verb. Conſcientia.
[b] In c. cum cuſtodes Teſti. [c] In S. ſed ille. Inſtit. de Act. Gl. in c. Statut. S. aſſeſſ. detent.

Eccluſ. 13. 20. alias 24.

4. *A free ſpirit,*

18. Is the bleſſing and effect of an obedient will to a well inſtructed conſcience, and more properly and peculiarly to the grace of chaſtity, to honeſty and ſimplicity; a ſlaviſh, morous, a childiſh and a trifling ſpirit being the puniſhment inflicted upon *David* before he repented of his fact with *Bathſheba*. But there is alſo a freedom which is properly the privilege, or the affection of conſcience, and is of great uſefulneſs to all its nobler operations; and that is, a being clear from prejudice and prepoſſeſſion, a purſuing of truths with holy purpoſes, an inquiring after them with a ſingle eye, not infected with any ſickneſs or unreaſonableneſs. This is the ſame thing with that which he diſtinctly

cals

cals [*A right ſoul*] To this is appendant alſo, that the conſcience cannot be conſtrained, it is of it ſelf *a free ſpirit*, and is ſubject to no commands, but thoſe of reaſon and religion. God onely is the Lord of our conſcience, and the conſcience is not to ſubject it ſelf any more to the Empire of ſin, to the law of *Moſes*, to a ſervile ſpirit, but to the laws of God alone, and the obedience of Jeſus, willingly, chearfully, and *in all inſtances*, whether the Commandement be conveyed by the holy Jeſus, or by his Vicegerents. But of this I ſhall afterwards give particular accounts.

5. *A devout minde*,

19. May procure more light to the conſcience, and aſſiſtances from the ſpirit of wiſdome in caſes of difficulty, and is a good remedy againſt a doubting and a ſcrupulous conſcience; but this is but indirect, and by the intermiſſion of other more immediate and proper entercourſes.

20. 6. But the laſt is perfectly the foundation of conſcience.

An enlightned Reaſon.

To which if we adde what S. *Bernard* before cals a *right ſoul*, that is, *an honeſt heart*, full of ſimplicity and hearty attention, and ready aſſent, we have all that by which the conſcience is informed and reformed, inſtructed and preſerved in its juſt meaſures, ſtrengths, and relations. For the *Rule of Conſcience* is all that notice of things and rules by which God would have good and evil to be meaſured, that is, the will of God communicated to us by any means, by *reaſon*, and by *enlightning*, that is, *natural* and *inſtructed*. So that *conſcience* is τὸ φυσικὸς, and θεοδίδακτος, it is *principled* by *creation*, and it is inſtructed or *illuminated* in the *regeneration*. For God being the fountain of all *good*, and *good* being nothing but a conformity to him, or to his will, what meaſures he makes, are to limit us. No man can make meaſures of good and evil, any more then he can make the good it ſelf. Men ſometimes give the inſtance in which the good is meaſured; but the *meaſure* it ſelf is the will of God. For therefore it is good to obey humane laws, becauſe it is Gods will we ſhould; and although the man makes the law to which we are to give obedience, yet that is not the rule. The rule is the Commandement of God, for by it obedience is made a duty.

Meaſured by the proportions of good and evil——

21. That is, of that which God hath declared to be good or evil reſpectively, the conſcience is to be informed. God hath taken care that his laws ſhall be publiſhed to all his ſubjects, he hath written them where they muſt needs read them, not in tables of ſtone or phylacteries on the forehead, but in a ſecret Table: The conſcience or minde of a man is the φυλακτήριον, the preſerver of the Court Rols of heaven. But I added this clauſe, to the former of [*a Rule*] becauſe the expreſs line of Gods rule is not the adequate meaſure of conſcience: but there are analogies and proportions, and commenſurations of things with things, which make the meaſure full and equal. For he does not always keep a good conſcienee who keeps onely the words of a Divine law, but the proportions alſo and the reaſons of it, the ſimilitudes and correſpondencies in like inſtances, are the meaſures of conſcience.

22. The whole meaſure and rule of conſcience is, The law of God, or Gods will, ſignified to us by nature, or revelation, and by the ſeveral manners and times

times and parts of its communication it hath obtained ſeveral names. The law of Nature. * The conſent of Nations. * Right Reaſon. * The Decalogue. * The Sermon of Chriſt. * The Canons of the Apoſtles. * The laws Eccleſiaſtical and Civil of Princes and Governours. * Fame, or the publick reputation of things, expreſſed by Proverbs and other inſtances and meaſures of publick honeſty. This is

Κανὼν τῶ καλῶ, τὸ γ' αἰσχρὸν μαθὼν,

ſo *Euripides* cals it, all the rule that teaches us good or evil. Theſe being the full meaſures of right and wrong, of lawful and unlawful, will be the Rule of Conſcience, and the ſubject of the preſent Books.

In order to practice——

23. In this, *conſcience* differs from *knowledge*, which is in order to ſpeculation, and ineffective notices. And it differs from *faith*, becauſe although *faith* is alſo in order to practice, yet not directly and immediately: it is a collection of propoſitions, the belief of which makes it *neceſſary* to live well, and *reaſonable* and *choſen*. But before the propoſitions of *faith* paſs into action, they muſt be tranſmitted through another principle, and that is *conſcience*. That Jeſus Chriſt is the Son of God, and our Lord, and our Maſter, is a propoſition of faith, and from thence if we paſs on to practice, we firſt take in another propoſition; *If he be our lord, where is his fear?* and this is a ſentence, or virtual propoſition of conſcience. And from hence we may underſtand the full meaning of the word [*Conſcience.*] Συνείδησις, and *Conſcientia*, and ſo our Engliſh word *Conſcience* have in them *Science* or *Knowledge*: the ſeat of it is the *Underſtanding*, the act of it is *Knowing*, but there muſt be a knowing of more together.

24. *Hugo de S: Victore* ſays, that *Conſcientia eſt cordis ſcientia, Conſcience is the knowledge of the heart.* It is ſo, but certainly this was not the ἔτυμον and original of the word. But there is truth in the following period. *Cor noſcit ſe & alia. Quando autem ſe noſcit appellatur conſcientia, quando præter ſe, alia noſcit, appellatur ſcientia.* Knowledge hath for its object any thing without; but when the *heart* knows it ſelf, then it is *conſcience*. So it is uſed in Authors ſacred and prophane. *Nihil mihi conſcius ſum*, ſaith S. *Paul*; I know nothing by my ſelf; *ut alios lateas, tute tibi conſcius eris*: and

——hic murus aheneus eſto,
Nil conſcire ſibi——

ſo *Cicero* to *Marcus Rutilius* uſes it; *Cùm & mihi conſcius eſſem quanti te facerem*; When I my ſelf was conſcious to my ſelf how much I did value thee. But this acception of the word *conſcience* is true, but not full and adequate; for it onely ſignifies *conſcience* as it is a *Witneſs*, not as a *Guide*. Therefore it is more reaſonable which *Aquinas* and the *Schoolmen* generally uſe: that conſcience is a conjunction of the univerſal practical law with the particular moral action: and ſo it is *ſcientia cum rebus facti*, and then it takes in that which is called συντήρησις, or the general repoſitory of moral principles or meaſures of good, and the particular caſes as reduced to practice. Such as was the caſe of S. *Peter* when he denied his Lord: He knew that he ought not to have done it, and his conſcience being ſufficiently taught his duty to his Lord, he alſo knew that he had done it, and then there followed a *remorſe*, a biting, or gnawing of his ſpirit, grief, and ſhame, and a conſequent weeping: when all

all theſe acts meet together, it is the full proceſs of *conſcience*.

1. The συντήρησις or the firſt act of conſcience, S. *Hierome* cals *Scintillam conſcientiæ*, the ſpark or fire put into the heart of man.

2. The συνείδησις, which is ſpecifically called *conſcience* of the deed done, is the bringing fuel to this fire.

3. And when they are thus laid together, they will either ſhine or burn; acquit or condemne. But this complication of acts is *conſcience*. The firſt is Science, *practical ſcience*; but annex the ſecond: or it and the third, and then it is *conſcience*. When *Davids* heart ſmote him, that is, upon his adultery and murder, his conſcience thus diſcours'd. Adultery and Murder are high violations of the Divine Law, they provoke God to anger, without whom I cannot live, whoſe anger is worſe then death. This is practical knowledge, or the principles of conſcience; but the following acts made it up into conſcience. For he remembred that he had betrayed *Uriah* and humbled *Bathſheba*, and then he begs of God for pardon; ſtanding condemn'd in his own breaſt, he hopes to be forgiven by Gods ſentence. But the whole proceſs of conſcience is in two practical Syllogiſms, in which the method is ever this. The συντήρησις or *Repoſitory* of practical principles begins, and where that leaves, the conſcience or the witneſs and Judge of moral actions begins, like *Jacob* laying *hold upon his elder brothers heel*. The firſt is this:

Whatſoever is injurious ought not to be done,
But to commit adultery is injurious,
Therefore it ought not to be done:

This is the Rule of conſcience, or the firſt act of conſcience as it is a Rule and a Guide, and is taken for the συντήρησις, or practical repoſitory. But when an action is done or about to be done, conſcience takes the concluſion of the former Syllogiſm, and applies it to her particular caſe.

Adultery ought not to be done,
This action I go about, or which I have done, is adultery,
Therefore it ought not to be done, or to have been done.

This is the full proceeding of this Court; after which many conſequent ſolemnities and actions do paſs, of ſentence, and preparatory torments and execution.

25. But this I am to admoniſh, that although this which I have thus defin'd, is the proper and full ſence of the word *Conſcience* according to art and proper acceptation, yet in Scripture it is uſed indifferently for an act of conſcience, or any of its parts, and does not always ſignify in its latitude and integrity, but yet it all tends to the ſame ſignification; and though the name be given to the faculty, to the habit, to the act, to the object, to the effect, to every emanation from the minde in things practical, yet ſtill it ſuppoſes the ſame thing: *viz.* that conſcience is the guide of all our moral actions; and by giving the name to ſo many acts and parts and effluxes from it, it warrants the definition of it when it is united in its own proper and integral conſtitution.

Acts 23.1. & 24.16. Rom. 13.5. 1 Cor. 8.10. & 19.12. 1 Tim. 1.5.19. & 3.9. 2 Tim. 1.3. Titus 1.15. 1 Pet. 2.19. 3.16. Heb. 13.18.

To conduct all our relations and entercourſes between God, our Neighbours and our Selves; that is, in all moral actions.

26. This is the final cauſe of *conſcience*: and by this it is diſtinguiſhed from *prudence*, which is alſo a practical knowledge and reduc'd to particular and circumſtantiate actions. But 1. *Prudence* conſiſts in the things of the world, or relative to the world; *Conſcience* in the things of God, or relating to him.

2. *Pru-*

2. *Prudence* is about affairs as they are of advantage or diſadvantage: *conſcience* is imployed about them as they are honeſt or diſhoneſt. 3. *Prudence* regards the circumſtances of actions whether moral or civil: *conſcience* onely regards moral actions in their ſubſtance or eſſential proprieties. 4. *Prudence* intends to doe actions dexterouſly and proſperouſly: *conſcience* is to conduct them *juſtly* and according to the Commandement. 5. There are many actions in which prudence is not at all concerned as being wholly indifferent to this or that for matter of advantage; but there is no action but muſt paſs under the file and cenſure of Conſcience; for if we can ſuppoſe any action in all its circumſtances to be wholly indifferent to *good* or *bad*; yet none is ſo to *lawful* or *unlawful*, the very *indifferent*, being therefore *lawful* becauſe it is *indifferent*, and therefore to be conſidered by conſcience, either *actually* or *habitually*: For in this ſenſe even our natural actions in their time and place, are alſo moral, and where they are not primarily moral, yet they come under conſcience, as being permitted, and innocent; but where ever they are relative to another perſon, they put on ſome more degrees of *morality*, and are of proper cogniſance in this Court.

Qui didicit patriæ quid debeat, & quid amicis:
Quo ſit amore parens, quo Frater amandus, & Hoſpes:
Quid ſit Conſcripti, quid Judicis officium: quæ
Partes in bellum miſſi Ducis: ille profectò
Reddere perſonæ ſcit convenientia cuique.

Horat. de arte Poet.

That is the full effect of conſcience, to conduct all our relations, all our moral actions.

RULE 2.

The duty and offices of Conſcience are to dictate, and to teſtify or bear witneſs; to accuſe or excuſe; to looſe or binde.

THE firſt and laſt are the direct acts and offices of Conſcience: the other are reflex or conſequent *actions*, but direct *offices*. The firſt act which is,

To dictate

Is of that which Divines call the σωτήρησις, or the phylactery, the keeper of the records of the laws, and by it we are taught our duty: God having written it in our hearts by Nature and by the Spirit, leaves it there, ever plac'd before the eye of conſcience as S. *Bernard* cals it) to be read and uſed for directions in all caſes of diſpute, of queſtion or action: this is that which S. *Paul* cals *the work of the law written in our hearts*, and therefore it is, that to ſin againſt our conſcience is ſo totally inexcuſable, and according to the degree of that violence which is done againſt the conſcience, puts on degrees. For conſcience dictates whatſoever it is perſwaded of, and will not ſuffer a man to do otherwiſe then it ſuggeſts and tels us: Rom. 2. 15.

Αἰ γὰρ πῶς αὐτόν με μὸ ὠμὸν ἐδμὸς ἀνείη
Ὠμὸ ἀπαμενόμενον κρέα ἔδμεναι·

Iliad. χ.

ſaid *Achilles* of *Hector* when he was violently angry with him; I would my conſcience would give me leave to eat thy very fleſh.

Its

2. Its univerſal dictates are ever the moſt certain, and thoſe are the firſt principles of juſtice and religion; and whatſoever elſe can be infallibly and immediately inferr'd from thence, are her dictates alſo, but not primely and directly, but tranſmitted by the hands of reaſon. The ſame reaſon alſo there is in clear revelation. For whatſoever is put into the conſcience immediately by God, is plac'd there to the ſame purpoſe, and with the ſame efficiency and perſwaſion as is all that which is *natural*. And the conſcience properly dictates nothing elſe, but *prime natural reaſon*, and *immediate revelation*; whatſoever comes after theſe two, is reach'd forth to us by *two hands*, one whereof alone is miniſtred by conſcience. The reaſon is this: Becauſe all that law by which God governs us is written in our hearts, put there by God immediately, that is, antecedently to all our actions, becauſe it is that by which all our actions are to be guided, even our diſcourſings and arguings are to be guided by conſcience, if the argument be moral: now the ways by which God ſpeaks to us immediately, are onely *Nature* and the *Spirit*: *Nature* is that principle which taught all men from the beginning until now; all that prime practical reaſon which is perfective of humane nature, and in which all mankinde agrees. Either the *perfections*, or the *renovations*, or the *ſuperadditions* to this are taught us by the *Holy Spirit*, and all this being written in the conſcience by the finger of God is brought forth upon all occaſions of action; and whatſoever is done againſt any thing ſo plac'd, is *directly* and *violently* againſt the conſcience; but when from thence reaſon ſpins a longer thred, and draws it out from the clue of natural principles or expreſs revelation, that alſo returns upon the conſcience and is plac'd there as light upon a wall, but not as the ſtones that are there: but yet whatever is done againſt that light is alſo againſt conſcience but not ſo as the other. Juſt as it is in nature and accident. To eat poiſon, and filthineſs is againſt every mans health and ſtomack; but if by an ἰδιοσυγκρασια a propriety of temper or an evil habit, or accidental inordination, wine, or fiſh makes a man ſick, then theſe are againſt his *nature* too, but not ſo as poiſon is, or ſtones. Whatever comes into the *conſcience primarily*, or *conſequently*, *right* or *wrong*, is brought forth upon occaſion of action, and is part of her dictate: but as a man ſpeaks ſome things of his own knowledge, ſome things by hearſay; ſo does conſcience, ſomethings ſhe tels from God and her ſelf, ſome things from reaſon and her ſelf, or other accidental notices: *Theſe* and *theſe* do integrate and complete her ſermons, but they have ſeveral influence and obligation according to their proper efficiency. But of this I ſhall give full accounts in the ſecond Book.

To teſtifie.

3. Conſcience bears witneſs of our actions; ſo S. *Paul*, *their conſcience bearing witneſs*: and in this ſenſe, conſcience is a practical memory. For as the practical knowledge, or notices ſubjected in the underſtanding make the *underſtanding* to be *conſcience*; ſo the actions of our life recorded in the *memory* and brought forth to practical judgements, change the *memory* alſo into *conſcience*. τὸ γὰρ γένος τ ἀνθρωπων παντη διαφέρον & τ ἀλλων ζωων, ἡ μόνοις αὐτοῖς μέτεστι τ λογισμῶ φαινεσθαι ὡς ἐοικε καὶ τ ἀγνοηθέντων αὐτοῖς τ παρειρημένων διαφορᾶν, καὶ δεῖν ὅτι τῶν ἀλλων ζωων. ἀλλ' ὑπομιμνήσκεσθαι τὰ γινόμενα καὶ δυσαρεστεῖσθαι τοῖς πραχθεῖσι. Man differing from brute beaſts by the uſe of reaſon, it is not likely he ſhould be a ſtranger to his own actions as the beaſts are, but that the evil which is done ſhould be recalled to their minde with the ſignification of ſome diſpleaſure. So *Polybius* diſcourſes of the reaſon and the manner of *conſcience*.

Every

4. Every *knowing faculty* is the ſeat of conſcience, and the ſame faculty when it is furniſhed with ſpeculative notions retains its natural and proper name of *Underſtanding*, or *Memory*; but as the ſame is inſtructed with notices in order to judgements practical, ſo it takes the *Chriſtian name* of *Conſcience*. The *Volitive* or *chooſing faculty* cannot, but the *intellectual* may. And this is that Book which at Doomſday ſhall be brought forth and laid open to all the world. The *Memory* chang'd into *Conſcience* preſerves the notices of ſome things, and ſhall be reminded of others, and ſhall doe that work intirely and perfectly, which now it does imperfectly and by parts, according to the words of S. *Paul*, *Then ſhall we know as we are known*, that is, as God knows us now, ſo then ſhall we ſee and know our ſelves. *Nullum theatrum virtuti conſcientiâ majus*, ſhall then be highly verified. Our conſcience will be the great Scene or Theatre upon which ſhall be repreſented all our actions good and bad. It is Gods Book, the Book of life or death. According to the words of S. *Bernard*, *Ex his quæ ſcripta erunt in libris noſtris judicabimur: & ideò ſcribi debent ſecundùm exemplar libri vitæ, & ſi ſic ſcripti non ſunt, ſaltem corrigendi ſunt.* We ſhall be judged by that which is written in our own books (the books of conſcience) and therefore they ought to be written according to the copy of the book of life; and if they be not ſo written, yet they ought to be ſo corrected.

1 Cor. 13. 12.

Cicero 2. Tuſcul.

De inter. dom. lib. 2. cap. ult.

5. Conſequently to theſe the conſcience does

Accuſe or *Excuſe*.

So S. *Paul* joyns them as conſequent to the former; *Their conſcience bearing witneſs, and their thoughts in the mean time accuſing or excuſing one another.* *Si optimorum conſiliorum atque factorum teſtis in omni vita nobis conſcientia fuerit, ſine ullo metu ſumma cum honeſtate vivemus.* If our conſcience be the witneſs that in our life we do good deeds, and follow ſober counſels, we ſhall live in great honeſty and without fear. Δικαστὴν Θεὸς ἐπέστησε καὶ δικαιότατον ἅμα καὶ οἰκειότατον, ὅ συνειδὸς αὐτὸ, καὶ καὶ ὀρθὸν λογον, ſaid *Hierocles*, *God hath conſtituted a moſt righteous and domeſtick Judge, the Conſcience and right Reaſon*; καὶ αὐτὸν ἑαυτῷ ὂν πάντων μάλιστα αἰδεῖσθαι προσεπαιδεύθημεν, *Every man ought moſt of all to fear himſelf, becauſe it is impoſſible but we ſhould know what we have done amiſs, and it concerns us alſo to make righteous judgement, for we cannot eſcape our ſelves.* Μηδέποτε μηδὲν αἰσχρὸν ποιήσας ἔλπιζε λήσειν· καὶ γὰρ ἂν τοὺς ἄλλους λάθῃς, σεαυτῷ γε συνειδήσεις, ſaid *Iſocrates*. *Etſi à cæteris ſilentium eſt, tamen ipſe ſibimet conſcius eſt poſſe ſe meritò increpari*, ſo *Apuleius* renders it. Though others hold their peace, yet there is one within that will not.

Rom. 2. 15.

Cicero pro Cluentio.

Nec facile eſt placidam ac pacatam degere vitam,
Qui violat factis communia fœdera pacis:
Etſi fallit enim Divum genus, Humanúmque;
Perpetuò tamen id fore clam diffidere debet.

Lucretius.

It is hard to be concealed from God and man too, and although we think our ſelves ſafe for a while, yet we have ſomething within that tels us ὁτὶ ἔστι λάθρα τι ποιῶν, he that does any thing is eſpied, and cannot doe it privately. *Quîcum in tenebris?* was the old Proverb; *Who was with you in the dark?* And therefore it was that *Epicurus* affirm'd it to be impoſſible for a man to be concealed always. Upon the miſtake of which he was accuſed by *Plutarch* and others, to have ſuppoſed it lawful to doe any injuſtice ſecretly; whereas his deſign was to obſtruct that gate of iniquity, and to make men beleeve that

even that ſin which was committed moſt ſecretly, would ſome time or other be diſcovered and brought to puniſhment; all which is to be done by the extraregular events of providence, and the certain accuſations and diſcoveries of Conſcience.

6. For Conſcience is the Looking-glaſs of the ſoul, ſo it was called by *Periphanes* in *Plautus*;

In Epidico.

Non oris causâ modò homines æquum fuit
Sibi habere ſpeculum, ubi os contemplarent ſuum;
Sed qui perſpicere poſſent cor ſapientiæ:
Igitur perſpicere poſſent ut cordis copiam
Ubi id inſpexiſſent, cogitarent poſtea
Vitam ut vixiſſent olim in adoleſcentia.

And a man looking into his Conſcience, inſtructed with *the word of God* its proper rule, is by S. *James* compar'd to a *man beholding his natural face in a glaſs*; and that the Apoſtle deſcribes *Conſcience* in that ſimilitude, is to be gathered from the word ἔμφυτον λόγον, *verbum inſitum, the ingraffed word*, the word of God written in our hearts, which who ſo looks on, and compares his actions with his rule, may ſee what he is: but he that neglects this word and follows not this rule, did indeed ſee his face, but hath forgotten what manner of man he was, that is, what he was fram'd in the works of the new Creation, when he was newly form'd and *created unto righteouſneſs and true holineſs*.

James 1. 21, 23, 24.

7. This accuſation and watchfulneſs, and vocal, clamorous guards of Conſcience are in perpetual attendance, and though they may ſleep, yet they are quickly awakened, and make the evil man reſtleſs. Τὸ ἀδικεῖν ἐν ἅπασι δεινὸν ἀθλίως καὶ ἀσεφόβως ζῶν ὁ πάντα χρόνον, ὅτι καὶ λαθεῖν ἀδύνατον ἔστι· ὅδεν ὁ μέλλον. ἀεὶ φόβος ἐν κύκλῳ. ὅτου δὲ χαίρειν, ἐπὶ διαρρεῖν δεῖ τοῖς πᾶσι, ſaid *Epicurus*, which is very well rendred by *Seneca*, *Ideo non prodeſt latentibus, quòd latendi etiamſi felicitatem habeant, fiduciam non habent.* They that live unjuſtly, always live miſerably and fearfully; becauſe although their crime be ſecret, yet they cannot be confident that it ſhall be ſo: meaning, that becauſe their conſcience does accuſe them, they perceive they are diſcovered, and pervious to an eye, which what effect it will have in the publication of the crime here and hereafter, is not matter of knowledge, but cannot chooſe but be matter of fear for ever.

Juven. Sat. 10.

——————fiet adulter
Publicus, & pœnas metuet quaſcunque mariti
Irati debent, nec erit felicior aſtro
Martis, ut in laqueos nunquam incidat——

If any chance makes the fact private, yet no providence or watchfulneſs can give ſecurity, becauſe *within* there dwels a principle of fear that can never die, till repentance kills it. And therefore *Chilon* in *Laërtius* ſaid upon this account, that loſs is rather to be choſen then filthy gain; becauſe that loſs brings ſorrow but once, but injuſtice brings a perpetual fear and pain.

Pers. Sat. 3.

Anne magis Siculi gemuerunt æra juvenci,
Et magis auratis pendens laquearibus enſis
Purpureas ſubter cervices terruit? Imus,
Imus præcipites, quam ſi ſibi dicat, & intus
Palleat infelix quod proxima neſciat uxor.

The wife that lies by his ſide knows not at what the guilty man looks pale, but ſomething that is within the boſome knows; and no pompouſneſs of condition can ſecure the man, and no witty cruelty can equal the torment. For that

that alſo, although it be not directly the office of conſcience, yet it is the act and effect of conſcience; when it ſelf is injur'd, it will never let any thing elſe be quiet.

To looſe or binde,

8. Is the reflex act of conſcience. Upon viewing the records, or the συντήρησις, the Legiſlative part of conſcience, it binds to duty; upon viewing the act, it binds to puniſhment, or conſigns to comfort; and in both regards it is called by *Origen*, *affectuum corrector, atque animæ pædagogus*, the corrector of the affections, and the teacher of the ſoul. Which kinde of ſimilitude *Epictetus* in *Stobæus* followed alſo, *Parentes pueros nos pædagogo tradiderunt, qui ubique obſervaret ne læderemur, Deus autem clam viros inſitæ conſcientiæ cuſtodiendos tradidit; quæ quidem cuſtodia nequaquam contemnenda eſt.* As our parents have delivered us to a guardian who did watch leſt we did or ſuffered miſchief; ſo hath God committed us to the cuſtody of our conſcience that is planted within us; and this cuſtody is at no hand to be neglected.

9. *The binding to duty* is ſo an effect of conſcience, that it cannot be ſeparated from it; but *the binding to puniſhment* is an act of conſcience alſo as it is a *Judge*, and is intended to affright a ſinner, and to puniſh him: but it is ſuch a puniſhment as is the beginning of hell torments, and unleſs the wound be cured will never end till eternity it ſelf ſhall go into a grave:

Illo nocens ſe damnat quo peccat die, Apud Publianum.

the ſame day that a man ſins, on the ſame day he is condemn'd; and when *Menelaus* in the Tragedy did ask,

Ορέστα τλήμων τὶς σ' ἀπόλλυσιν νόσος;

what diſeaſe kill'd poor *Oreſtes?* he was anſwer'd,

Η συνέσις, ὅτι συνοἶδα δεινὰ εἰργασμένος·

His diſeaſe was nothing but an evil conſcience; he had done vile things, and had an amazed ſpirit that diſtracted him, and ſo he died. *Curas ultrices Virgil* cals the wounds of an evil conſcience, *Revenging cares. Nihil eſt miſerius quàm animus hominis conſcius* ſaid he in the Comedy; nothing is more miſerable then an evil conſcience, and the being pain'd with it, is called τῷ συνειδότι ἀπάγχεσθαι, to be choked or ſtrangled with an evil conſcience; by S *Chryſoſtome* (who in his 22. Homily upon the firſt Epiſtle to the *Corinthians*, ſpeaks much and excellently to the ſame purpoſe;) and there are ſome that fancy that this was the cauſe of *Judas* death; The horrors of his conſcience were ſuch that his ſpirits were confounded, and reſtleſs, and uneaſy; and ſtriving to go from their priſon ſtopp'd at the gates of emanation, and ſtifled him. It did that, or as bad; it either choak'd him, or brought him to a haltar, as it hath done many beſides him. Plautus. And although I may truly ſay as he did,

Non mihi ſi linguæ centum——
Omnia pœnarum percurrere nomina poſſem,

no tongue is able to expreſs the evils which are felt by a troubled conſcience, or a wounded ſpirit, yet the heads of them are viſible and notorious to all men.

10. 1. The firſt is that which *Nazianzen* cals τὰς ἐν αὐτοῖς τοῖς δεινοῖς ἐξαγορεύσεις, accuſations and vexings of a man when he is in miſery; then when he needs moſt comfort, he ſhall by his evil conſcience be moſt diſquieted. A ſickneſs awakes a dull ſleeping conſcience, and when it is awaken'd it will make that the man ſhall not ſleep. So *Antiochus* when his Lieutenant *Lyſias* was beaten 1 Mace. 6. 12.

ten by the Jews, he fell ſick with grief, and then his conſcience upbraided him; *but now* (ſaid he) *I remember the evils that I did at Jeruſalem; quia invenerunt me mala iſta*, ſo the *Latin Bible* reads it; *becauſe theſe evils now have found me out.* For when a man is proſperous, it is eaſie for him to ſtop the mouth of conſcience, to bribe or to abuſe it, to fill it with noiſe, and to divert it with buſineſs, to outvie it with temporal gayeties, or to be flattered into weak opinions and ſentences; but when a man is ſmitten of God, and deveſted of all the outſides and hypocriſies of ſin, and that conſcience is disintangled from its fetters and fooliſh pretenſions, then it ſpeaks its own ſenſe, it ever ſpeaks loudeſt when the man is poor, or ſick, or miſerable. This was well explicated by S. *Ambroſe*, *Dum ſumus in quadam delinquendi libidine, nebulis quibuſdam conſcientiæ mens obducitur, nè videat eorum quæ concupiſcit deformitatem. Sed cùm omnis nebula tranſierit, gravia tormenta exercentur in quodam malè conſcii ſecretario.* A man is ſometimes ſo ſurpris'd with the falſe fires and glarings of temptation, that he cannot ſee the ſecret turpitude and deformity. But when the cloud and vail is off, then comes the tormentor from within:

Æneid. 12. ——*acuúntque metum mortalibus ægris,*
Si quando lethum horrificum, morbóſque Deûm Rex
Molitur, meritas aut bello territat urbes.

Then the calamity ſwels, and conſcience increaſes the trouble, when God ſends warre, or ſickneſs, or death. It was *Sauls* caſe, when he loſt that fatal battel in which the Ark was taken, he called to the *Amalekite*, *Sta ſuper me & interfice me*, fall upon me and ſlay me; *quoniam tenent me anguſtiæ, I am in a great ſtrait.* He was indeed; for his ſon was ſlain, and his army routed, and his enemies were round about: But then conſcience ſtept in and told him of the evil that he had done in cauſing fourſcore of the Lords Prieſts to be ſlain; and therefore *Abulenſis* reads the words thus, *Fall upon me and ſlay me, quoniam tenent me oræ veſtimenti Sacerdotalis*, I am intangled in the fringes of the Prieſts garments. *Videbatur ſibi Saul quòd propinquus morti videret Sacerdotes Dei accuſantes eum in judicio coram Deo.* He thought he ſaw the Prieſts of the Lord accuſing him before God. And this hath been an old opinion of the world, that in the days of their calamity wicked perſons are accus'd by thoſe whom they have injur'd. Not much unlike to which is that of *Plato*, deſcribing the torments of wicked ſouls, ἔοικε γὰρ καλεῖσιν· οἱ μὲν ὃς ἀπέκτειναν, οἱ δ' ὃς ὕβρισαν· καλέσαντες δ' ἱκετεύουσι τὸς ἠδικημένους δοῦναί σφισι συγγνώμην, *They roar and cry out. Some calling on them whom they kill'd, ſome on thoſe they have calumniated; and calling they pray them whom they have injured to give them pardon.* Then every buſh is a wild beaſt, and every ſhadow is a ghoſt, and every gloworm is a dead mans candle, and every lantern is a ſpirit.

——*pallidúmque viſâ*
Matris lampade reſpicit Neronem.

When *Nero* was diſtreſſed, he ſaw his mothers tapor and grew pale with it.

11. 2. The ſecond effect is *ſhame*, which conſcience never fails to inflict ſecretly, there being a ſecret turpitude and baſeneſs in ſin, which cannot be better expreſs'd then by its oppoſition and contradiction to conſcience. Conſcience when it is right makes a man bold; *qui ambulat ſimpliciter, ambulat confidenter, he that walks honeſtly, walks confidently*, becauſe he hath innocence and he hath reaſon on his ſide. But he that ſins, ſins againſt reaſon, in which the honour and the nobleneſs of a man does conſiſt; and therefore ſhame muſt

muſt needs come in the deſtitution of them. For as by reaſon men naturally rule, ſo when they are fallen from it, unleſs by ſome accidental courages they be ſupported, they fall into the ſtate of ſlaves and ſneaking people. And upon this account it was that *Plato* ſaid, *Si ſcirem Deos mihi condonaturos, & homines ignoraturos, adhuc peccare erubeſcerem propter ſolam peccati turpitudinem.* If I were ſure God would pardon me, and men would not know my ſin, yet I ſhould be aſhamed to ſin, becauſe of its eſſential baſeneſs: The Miſtreſſes of our vile affections are ſo ugly, we cannot endure to kiſs them but through a vail; either the vail of excuſe, or pretence, or darkneſs; ſomething to hide their uglineſs; and yet even theſe alſo are ſo thin that the filthineſs and ſhame is not hid. *Bona conſcientia turbam advocat, mala autem in ſolitudine anxia atque ſollicita eſt*, ſaid *Seneca*. An evil conſcience is aſham'd of light, and afraid of darkneſs; and therefore nothing can ſecure it. But being aſham'd before Judges, and aſſemblies, it flies from them into ſolitudes, and when it is there, the ſhame is chang'd into fear, and therefore from thence it runs abroad into ſocieties of merry criminals, and drinking ſanctuaries, which is nothing but a ſhutting the eyes, and hiding the head, while the body is expoſed to a more certain danger. It cannot be avoided, it was and is and will eternally be true, *Perjurii pœna Divina exitium, humana dedecus eſto.* Which S *Paul* perfectly renders, *The things whereof ye are now aſhamed; the end of theſe things is death.* Death is the puniſhment which God inflicts, and ſhame is that which comes from man.

Cicero de legib. l. 2.

Rom. 6. 21.

12. 3. There is another effect which cannot be well told by him that feels it, or by him that ſees it, what it is; becauſe it is a thing without limit and without order. It is a diſtraction of minde, indeterminate, divided thoughts, flying every thing, and purſuing nothing. It was the caſe of *Nebuchadnezzar*, οἱ λογισμοὶ αὐτῦ διεταράσσον αὐτόν, his thoughts troubled him. *Varios vultus, diſpariléſque ſenſus*; like the Sophiſters who in their purſuit of vainglory diſpleaſed the people, and were hiſſed from their Pulpits; nothing could amaze them more; they were troubled like men of a diſturbed conſcience. The reaſon is, they are fallen into an evil condition which they did not expect; they are abus'd in their hopes, they are fallen into a ſad ſtate of things, but they know not yet what it is, nor where they are, nor whither it will bear them, nor how to get out of it. This indeed is commonly the firſt part of the great evil; ſhame goes along with the ſin, in the very acting it, but as ſoon as it is acted, then begins this confuſion,

A. Gell. l. 5. c. 2.

——*nefas tandem incipiunt ſentire peractis*
Criminibus——

they thought of nothing but pleaſure before, but as ſoon as they have finiſhed, then they begin to taſt the *wormwood* and the *colliquintida*; *perfecto demum ſcelere, magnitudo ejus intellecta eſt*, ſaid *Tacitus*. While they were doing it, they thought it little, or they thought it none, becauſe their fancy and their paſſion rul'd; but when that is ſatisfied and burſt with a filthy *plethory*, then they underſtand how great their ſin is, but are diſtracted in their thoughts, for they underſtand not how great their calamity ſhall be.

Lib. 14. Annal.

Occultum quatiente animum tortore flagellum,

the ſecret tormentor ſhakes the minde, and diſſolves it into indiſcrimination and confuſion. The man is like one taken in a lie, or ſurpris'd in a ſhameful act of luſt, or theft; at firſt he knows not what to ſay, or think, or do, and his ſpirits huddle together, and fain would go ſome where, but *they know not whither*, and doe ſomething, but *they know not what*.

13. This confuſion and firſt amazement of the conſcience in ſome vile natures, and baſer perſons proceeds to impudence, and hardneſs of face.

——*frontémque à crimine ſumunt.*

when they are diſcover'd they rub their foreheads hard, and conſider it cannot be worſe, and therefore in their way they make the beſt of it; that is, they will not ſubmit to the judgement of conſcience, nor ſuffer her infliction, but take the fortune of the *Banditi*, or of an outlaw, rather then by the rule of ſubjects ſuffer the penalty of the Law, and the ſeverity of the Judge. But *Conſcience* hath no hand in this, and whatſoever of this nature happens, it is in deſpite of conſcience; and if it proceeds upon that method, it goes on to *obſtinacy*, hardneſs of heart, a reſolution never to repent, a hatred of God, and *reprobation*. For if conſcience be permitted to do its work, this confuſion when it comes to be ſtated, and that the man hath time to conſider, it paſſes on to fear; and that is properly the next effect.

14. 4. An evil or a guilty conſcience is diſpos'd for fear, ſhame and fear cannot be far aſunder:

Epicharm: Ἐνθα δὲ θεὸς, ἐνταῦθα καὶ αἰδώς.

Sin makes us aſham'd before men, and afraid of God: an evil conſcience makes man a coward, timorous as a child in a Churchporch at midnight; it makes the ſtrongeſt men to tremble like the keepers of the houſe of an old mans Tabernacle.

Ὁ συνιστορῶν αὐτῷ τι, κἂν ᾖ θεὸς αὐτὸς,
Ἡ σύνεσις αὐτὸν δειλότατον ἐν ποιεῖ,

ſaid *Menander*, No ſtrength of body, no confidence of ſpirit is a defenſative againſt an evil conſcience which will intimidate the courage of the moſt perfect Warriour.

Qui terret, plus iſte timet, ſors iſta tyrannis
Convenit, invideant claris, fortéſque trucident,
Muniti gladiis vivant, ſeptíque venenis
Ancipites habeant arces, trepidíque minentur.

De 4 Honor. Conſul. So *Claudian* deſcribes the ſtate of Tyrants and injurious perſons, they do evil and fear worſe, they oppreſs brave men, and are afraid of mean fellows; they are encompaſſed with ſwords, and dwell amongſt poyſons, they have towers with back doors and many outlets, and they threaten much, but themſelves are moſt afraid. We read of *Belteſhazzar*, his knees beat againſt each other upon the arreſt made on him by the hand on the wall, which wrote the ſentence of God in a ſtrange character, becauſe he would not reade the writing in his conſcience. This fear is very great and very laſting even in this world: and is rarely well deſcrib'd by *Lucretius*:

Cerberus & Furiæ——
——*neque ſunt uſquam, neque poſſunt eſſe profectò:*
Sed metus in vitâ pœnarum pro malefactis
Eſt inſignibus inſignis; ſceleríſque luela
Carcer, & horribilis de ſaxo jacta deorſum,
Verbera. Carnifices, robur, pix, lumina, tædæ,
Quæ tamen etſi abſunt, & mens ſibi conſcia facti
Præmetuens adhibet ſtimulos, torrétque flagellis;

Which deſcription of the evil and intollerable pains and fears of conſcience is exceeded by the Author of the wiſdome of *Solomon*, *Indiſciplinatæ animæ erraverunt*. That is the ground of their miſery; *The ſouls were refractory to diſcipline, and have erred. They oppreſs the holy Nation.* The effect was, *they became priſoners*

Prisoners of darkness, and fettered with the bands of a long night; fugitivi perpetuæ providentiæ jacuerunt, they became outlaws from the divine providence. And while they supposed to lie hid in their secret sins, they were scattered under a dark vail of forgetfulness; paventes horrendè, & cum admiratione nimia perturbati, they did fear horribly, and disturbed with a wonderful amazement. For neither might the corner that held them keep them from fear, but a sound descending did trouble them; & personæ tristes apparentes pavorem illis præstabant, sad apparitions did affright them; a fire appeared to them very formidable; & timore percussi ejus quæ non videbatur faciei; they were affrighted with the apprehensions of what they saw not: and all the way in that excellent description, there is nothing but fear, and affrightment, horrid amazement and confusion; *pleni timore,* and *tremebundi peribant, full of fear, and they perished trembling;* and then follows the philosophy and rational account of all this. *Frequenter enim præoccupant pessima redarguente conscientiâ. When their conscience reproves them, they are prepossess'd with fearful expectations. For wickedness condemn'd by her own witness is very timorous. Cùm enim sit timida nequitia, dat testimonium condemnata: Conscience gives witness and gives sentence, and when wickedness is condemn'd it is full of affrightment.* For *fear is præsumptionis adjutorium,* the allay of confidence and præsumption, and the promoter of its own apprehensions, and *betrays the succours that reason yeelds.* For indeed in this case, no reason can dispute a man out of his misery, for there is nothing left to comfort the conscience, so long as it is devested of its innocence. The Prophet *Jeremy* instances this in the case of *Pashur* who oppressed the Prophets of the Lord, putting them in Prison and forbidding them to preach in the name of the Lord: *Thy name shall be no more called Pashur but Mager Missabib,* [*that is, fear round about*] *for I will make thee a terror unto thy self.* Jer. 20. 4.

15. This fear of its own nature is apt to increase, for indeed it may be infinite.

Nec videt interea quis terminus esse malorum
Possit, nec quæ sit pœnarum denique finis.
Atque eadem metuunt magis, hæc nè in morte gravescant.
Hinc Acherusia fit stultorum denique vita. Lucret.

He that fears in this case, knows not the greatness and measure of the evil which he fears; it may arrive to infinite, and it may be any thing, and it may be every thing, and therefore there is,

16. 5. *An appendant perpetuity and restlessness*; a man of an evil conscience is never at quiet. *Impietas enim malum infinitum est, quod nunquam extingui potest,* said *Philo:* He is put to so many shifts to excuse his crime before men, and cannot excuse it to God or to himself, and then he is forc'd to use arts of forgetfulness, that he may not remember his sorrow; he runs to weakness for excuse, and to sin for a comfort, and to the methods and paths of hell for sanctuary, and rols himself in his uneasy chains of fire, and changes from side to side upon his gridiron till the flesh drop from the bones on every side. This is the Poets vultur, De profugis.

Immortale jecur tundens, fœcundáque pœnis
Viscera, rimatúrque epulis, habitátque sub alto
Pectore, nec fibris requies datur ulla renatis.

It gnaws perpetually, and consumes not, being like the fire of hell, it does never devour, but torments for ever.

6. This

17. 6. This fear and torment, which is inflicted by conſcience does not only increaſe at our death, but after death is the beginning of hell. For theſe are the fire of hell; ὀδυνῶμαι ἐν τῇ φλογὶ ταύτῃ, I am tormented in this flame, ſo ſaid *Dives* when he was in torments; that is, he had the torments of an evil conſcience, for hell it ſelf is not to be opened till the day of judgement; but the ſharpeſt pain is uſually expreſſed by *fire*, and particularly the troubles of minde are ſo ſignified. *Urit animum meum*; *This burns*, that is, this exceedingly troubles my minde; and *uro hominem* in the Comedy, I vex him ſufficiently, I burn him; *loris non ureris*, thou art not tormented with ſcourgings.

Juvenal. *Pœna autem vehemens, & multò ſævior illis*
Quos & Cæditius gravis invenit, & Rhadamanthus,
Nocte dieque ſuum geſtare in pectore teſtem.

This is a part of hell fire, the ſmoke of it aſcends night and day; and it is a preparatory to the horrible ſentence of Doomſday, as the being tormented in priſon is, to the day of condemnation and execution. The conſcience in the ſtate of ſeparation does accuſe perpetually, and with an inſupportable amazement fears the revelation of the day of the Lord.

Martial. *Et cum fateri Furia juſſerit verum,*
Cogente clamet conſcientia ſcripſi.

The fury within will compel him to confeſs, and then he is prepared for the horrible ſentence, as they who upon the rack accuſe themſelves, and then they are carried to execution. *Menippus* in *Lucian* ſays that the ſouls of them that are dead are accuſed by the ſhadows of their bodies. Νεκυομαντεία. Αὐτίκα τοίνυν ἐπειδὰν ἀποθάνωμεν κατηγοροῦσι τε καὶ καταμάρτυρουσι καὶ διελέγχουσι τὰ πεπραγμένα ἡμῖν αἱ σκιαὶ τοῦ βίου· and theſe he ſays are ἀξιόπιστοι *worthy of belief*, becauſe they are always preſent, and never parted from the bodies; meaning that a mans conſcience which is inſeparable as a ſhadow, is a ſtrong accuſer and a perfect witneſs: and this will never leave them till it carries them to hell, and then the fear is chang'd into deſpair, and indignation, and hatred of God, and eternal blaſphemy. This is the full progreſs of an evil conſcience, in its acts of binding.

Queſt.

18. BUT if it be inquired by what inſtrument conſcience does thus torment a man, and take vengeance of him for his ſins, whether it hath a proper efficiency in it ſelf, and that it gives torment, as it underſtands, by an exerciſe of ſome natural power; * or whether it be by an act of God inflicting it, * or by opinion and fancy, * by being perſwaded of ſome future events which ſhall be certainly conſequent to the ſin, or by Religion and belief, * or laſtly by deception and meer illuſion, and upon being affrighted with bugbears? I anſwer,

19. That it does or may afflict a man by all theſe. For its nature is to be inquiſitive and buſie, querulous and complaining; and to doe ſo is as natural to it, as for a man to be grieved when any thing troubles him. But becauſe men have a thouſand little arts to ſtifle the voice of conſcience, or at leaſt that themſelves may not hear it; God oftentimes awakens a man by a ſudden daſh of thunder and lightning, and makes the conſcience ſick, and troubleſome; juſt as upon other accidents a man is made *ſad*, or *hardned*, or *impudent*, or *fooliſh*, or *reſtleſs*: and ſometimes every dream, or ſad ſtory that the man hath heard, the flying of birds, and the hiſſing of ſerpents, or the fall of waters, or the beating of a watch, or the noiſe of a cricket, or a ſuperſtitious tale, is ſuffered to doe the man a miſchief and to increaſe his fear.

—*Ergo*

——*Ergo exercentur pœnis, veterúmque malorum*
Supplicia expendunt.

This the Poets and Prieſts expreſſed by their *Adraſtea, Nemeſis, Minos, Æacus* and *Rhadamanth*, not that theſe things were real,

—*neque ſunt uſquam, neque poſſunt eſſe profectò,*

ſaid one of them; but yet to their pains and fears they gave names, and they put on perſons, and a phantaſtick cauſe may have a real event, and therefore muſt come from ſome further principle: and if an evil man be affrighted with a meteor or a bird, by the chattering of ſwallows (like the young Greek in *Plutarch*) or by his own ſhadow (as *Oreſtes* was) it is no ſign that the fear is vain, but that God is the Author of conſcience, and will beyond the powers of nature, and the arts of concealment ſet up a Tribunal, and a Gibbet, and a Rack in the Court of Conſcience. And therefore we finde this evil threatned by God to fall upon ſinners. *They that are left alive of you in the land of your captivity, I will ſend fainting in their hearts, in the land of their enemy, and the ſound of a leaf ſhall chace them:* and again *The Lord ſhall give thee there a trembling heart, and failing of eyes, and ſorrow of minde, and thy life ſhall hang in doubt before thee, and thou ſhalt fear day and night, and ſhalt have no aſſurance of thy life:* and this very fear ends in death it ſelf; it is a mortal fear ſometimes; for when the Prophet *Iſaiah* had told concerning *Jeruſalem, Thy ſlain men are not ſlain with the ſword, nor dead in battle*; to the inquiry of thoſe who ask how then were they ſlain? the anſwer is made by a learned gloſs upon the place, *Homines hi non expectato adventu hoſtis, velut transfoſsi exanimantur metu:* They were dead with fear, ſlain with the affrightments of their own conſcience, as if they were transfixed by the ſpear of their enemies. *Quid ergo nos à Diis immortalibus divinitùs expectemus, niſi errationibus finem faciamus*, ſaid *Q. Metellus* in *A. Gellius:* There is no avoiding puniſhment, unleſs we will avoid ſin; ſince even a ſhadow as well as ſubſtances may become a *Nemeſis*, when it is let looſe by God, and conducted by conſcience.

Æſchyl. — Levit. 26. 36. — Deuter. 28. 65. — Iſai. 22. 2. — Lib. 1. c. 6.

20. But the great inſtrument of bringing this to paſs is that certainty of perſwaſion which is natural in all men, and is taught to all men, and is in the ſanction of all laws expreſly affirmed by God, that evil ſhall be to them that doe evil;

Θεὸς ἀτίζων τὸς θεοτίσ, δυσὶ δίκλοις,
He that diſhonours God ſhall not eſcape puniſhment: both in this life,

Ultrix Erinnys impio dignum parat
Lethum Tyranno——

Senec. Oct. Act. 3.

and after this life, for ſo they reckon'd, that *Adulterers, Rebels*, and *Traytors* ſhould be kept in priſons in fearful expectation of horrid pains;

Quique ob adulterium cæſi, quique arma ſecuti
Impia, nec veriti Dominorum fallere dextras,
Incluſi pœnam expectant——

all this is our conſcience, which in this kind of actions and events, is nothing but the certain expectation and fear of the Divine vengeance.

Queſt.

21. BUT then why is the conſcience more afraid in ſome ſins then in others, ſince in ſins of the greateſt malignity we finde great difference of fear and apprehenſion, when becauſe they are of extreme malignity there can be no difference in their demerit?

22. I anſwer; Although all ſins be damnable, yet not onely in the ſeveral degrees of ſin, but in the higheſt of all there is great difference; partly proceeding

ding from the Divine threatnings, partly from fame and opinion, partly from other cauſes.

For 1. there are ſome ſins which are called *peccata clamantia, crying ſins*; that is, ſuch which cry aloud for vengeance; ſuch which God not onely hath ſpecially threatned with horrid plagues, but ſuch which doe ſeldome eſcape vengeance in this life, but for their particular miſchief are hedged about with thorns leſt by their frequency they become intolerable. Such are *Sacrilege*, *Oppreſſion of widows and Orphans*, *Murder*, *Sodomy*, and the like. Now if any man fals into any of theſe crimes, he ſees an Angel with a ſword drawn ſtand before him; he remembers the angry words of God, and cals to minde that ſo few have eſcaped a ſevere judgement here, that Gods anger did converſe with men, and was cloth'd with our circumſtances, and walk'd round about us; and leſs then all this is enough to ſcare an evil conſcience.

But 2. there are ſome certain defenſatives and natural guards which God hath plac'd in men againſt ſome ſins; ſuch as are a natural abhorrency againſt unnatural luſts. A natural pity againſt Murder, and Oppreſſion: the double hedge of ſacredneſs and religion againſt Sacrilege. He therefore that commits any of theſe ſins does ſo much violence to thoſe defenſatives, which were plac'd either in or upon his heart, that ſuch an act is a natural diſeaſe, and vexes the conſcience not onely by a moral but by a natural inſtrument.

3 There are in theſe crying ſins certain accidents and appendages of horror which are apt to amaze a mans minde: as in Murder there is the circumſtance and ſtate of death, which when a man ſees and ſees alone, and ſees that himſelf hath acted, it muſt needs affright him; ſince naturally moſt men abhorre to be alone with a dead corpſe; ſo alſo in Oppreſſion of widows, a man meets with ſo many ſad ſpectacles, and hears ſo many groans, and clamorous complaints, ſuch importunities, and ſuch prayers, and ſuch fearful curſings, and perpetual weepings, that if a man were to uſe any artifice to trouble a mans ſpirit, he could not dreſs his Scene with more advantage.

4. Fame hath a great influence into this effect, and there cannot eaſily be a great ſhame amongſt men, but there muſt be a great fear of vengeance from God; and the ſhame does but antidate the Divine anger, and the man feels himſelf entring into it, when he is enwrapped within the other. A man committing a foul ſin, which hath a ſpecial diſhonour and ſingular diſreputation among men, is like a wolf eſpied amongſt the ſheep: The outcry and noiſes among the ſhepherds make him flie for his life, when he hears a vengeance comming. And beſides in this caſe, it is a great matter that he perceives all the world hates him for his crime, and that which every one decries muſt needs be very hateful and formidable, and prepar'd for trouble.

5. It cannot be denied, but *Opinion* alſo hath ſome hand in this affair; and ſome men are affrighted from their cradle in ſome inſtances, and permitted or conniv'd at in others; and the fears of childhood are not ſhaken from the conſcience in old age: as we ſee the perſwaſions of childhood in moral actions are permanent, ſo is the fear and hope which were the ſanction and eſtabliſhment of thoſe perſwaſions. Education and Society, and Country Cuſtomes, and States of life, and the Religion or Sect of the mans profeſſing, have influence into their portions of this effect.

23. The conſequent of this diſcourſe is this; That we cannot take any direct accounts of the greatneſs or horror of a ſin by the affrightment of conſcience. For it is with the affrightments of conſcience as it is in temporal judgements; ſometimes they come not at all, and when they doe, they come irregu-

irregularly, and when they doe not, the man does not eſcape. But in ſome ſins God does ſtrike more frequently then in others, and in ſome ſins men uſually are more affrighted then in others. The outward judgement and the inward fear are intended to be deleteries of the ſin, and inſtruments of repentance; but as ſome great ſins eſcape the rod of God in this life, ſo are ſuch ſinners oftentimes free from great affrightments. But as he who is not ſmitten of God, yet knows that he is always liable to Gods anger, and if he repents not, it will certainly fall upon him hereafter: ſo it is in *conſcience*, he that fears not, hath never the leſs cauſe to fear, but oftentimes a greater, and therefore is to ſuſpect and alter his condition, as being of a deep and ſecret danger: and he that does fear, muſt alter his condition, as being highly troubleſome. But in both caſes, conſcience does the work of a Monitor and a Judge. In ſome caſes, conſcience is like an eloquent and a fair ſpoken Judge, which declaims not againſt the criminal, but condemnes him juſtly: In others, the Judge is more angry, and affrights the priſoner more, but the event is the ſame. For in thoſe ſins where the conſcience affrights, and in thoſe in which ſhe affrights not, ſuppoſing the ſins equal but of differing natures, there is no other difference; but that conſcience is a Clock, which in one man ſtrikes aloud and gives warning, and in another the hand points ſilently to the figure, but ſtrikes not; but by this he may as ſurely ſee what the other hears, *viz.* that his hours paſs away, and death haſtens, and after death comes judgement.

24. But by the meaſures of binding, we may judge of the *looſing*, or *abſolution*, which is part of the judgement of conſcience, and this is the greateſt pleaſure in the world;

Μονον ᾧ τοῦτο φασ' ἀμιλλᾶσθαι βίῳ,
Γνώμην δικαίαν καὶ γαληνὸν ἦτορ πατρός.

Eu. Iph. Taur.

a good conſcience is the moſt certain, cleareſt, and undiſturbed felicity. *Lectulus reſperſus floribus bona eſt conſcientia, bonis refecta operibus.* No bed ſo ſoft, no flowers ſo ſweet, ſo florid and delicious as a good conſcience, in which ſprings all that is delectable, all that may ſuſtain and recreate our ſpirits. *Nullâ re tam lætari ſoleo quàm officiorum meorum conſcientiâ.* I am pleaſed in nothing ſo much as in the remembrances and conſcience of my duty, ſaid *Cicero*. Upon this pillow and on this bed, Chriſt ſlept ſoundly in a ſtorm, and S. *Peter* in Priſon ſo faſt that the brightneſs of an Angel could not awake him, or make him to riſe up without a blow on his ſide. This refreſhed the ſorrows of *Hezekiah* when he was ſmitten with the plague, and not only brought pleaſure for what was paſt, and ſo doubled the good of it,

Vivere bis vitâ poſſe priore frui;

but it alſo added ſomething to the number of his years,

Ampliat ætatis ſpacium ſibi vir bonus—.

And this made *Paul* and *Silas* ſing in Priſon and in an Earthquake; and that I may ſumme up all the good things in the world, I borrow the expreſſion of S. *Bernard*, *Bona conſcientia non ſolùm ſufficit ad ſolatium ſed etiam ad coronam:* It is here a perpetual comfort, it will be hereafter an eternal crown.

25. This very thing *Epicurus* obſerv'd wiſely, and in his great deſign for pleaſure commended Juſtice as the ſureſt inſtrument to procure it. So *Antiphon*, *Conſcium eſſe ſibi in vitâ nullius criminis, multum voluptatis parit:* and *Cato* in *Cicero*, *Conſcientia benè actæ vitæ multorúmque benefactorum recordatio jucundiſſima eſt:* Nothing is a greater pleaſure then a good conſcience; for there is peace and no diſturbance; καρπὸς μέγιστος ἀζαραξία: Quietneſs is the beſt fruit,

fruit, and that grows onely upon the tree in the midſt of Paradiſe, upon the ſtock of a holy Heart or Conſcience. Onely care is to be taken, that *boldneſs* be not miſtaken for *peace*, and hardneſs of heart for a good conſcience. It is eaſie to obſerve the difference, and no man can be innocently abuſed in this affair. Peace is the fruit of a holy conſcience. But no man can ſay, I am at peace, therefore I have a holy conſcience. But, I have lived innocently, or I walk carefully with my God, and I have examined my conſcience ſeverely, and that accuſes me not; therefore this peace is a holy peace, and no illuſion. A man may argue thus: I am in health, and therefore the ſleep I take is natural and healthful. But not thus: I am heavy to ſleep, therefore I am in health, for his dulneſs may be a lethargy. A man may be quiet, becauſe he inquires not, or becauſe he underſtands not, or becauſe he cares not, or becauſe he is abuſed in the notices of his condition. But the true peace of conſcience is thus to be diſcerned.

Signs of true peace.

1. Peace of conſcience is a reſt after a ſevere inquiry. When *Hezekiah* was upon his deathbed as he ſuppoſed, he examined his ſtate of life, and found it had been innocent in the great lines and periods of it; and he was juſtly confident.

2. Peace of conſcience can never be in wicked perſons, of notorious evil lives. It is a fruit of holineſs, and therefore what quietneſs ſoever is in perſons of evil lives, it is to be attributed to any other cauſe, rather than *innocence*; and therefore is to be called any thing rather than *juſt peace*. *The adulterous woman eateth and wipeth her mouth, and ſaith, I have done no wickedneſs.* And *Pilate waſhed his hands*, when he was dipping them in the moſt innocent, the beſt and pureſt bloud of the world. But S. *Paul* had peace, becauſe he really had *fought a good fight*. And it is but a fond way to ask a ſign how to diſcern, when the Sun ſhines. If the Sun ſhines we may eaſily perceive it, and then the beams we ſee are the Sunbeams; but it is not a ſure argument to ſay, I ſee a light, therefore the Sun ſhines; for he may eſpy onely a tallow candle, or a gloworm.

Prov. 30. 20.

3. That reſt which is onely in the days of *proſperity*, is not a juſt and a holy peace, but that which is in the days of ſorrow and affliction. The noiſe and madneſs of wine, the tranſportations of proſperity, the forgetfulneſs of riches, and the voice of flatterers outcry conſcience, and put it to ſilence; and there is no reaſon to commend a womans ſilence and modeſty when her mouth is ſtop'd. But in the days of ſorrow, then conſcience is vocal, and her muffler is off;

Eccluſ. 13. 26.

> *—Invigilant animo, ſceleriſque patrati*
> *Supplicium exercent curæ, tunc plurima verſat*
> *Peſſimus in dubiis augur timor——*

Statius lib. 7. Theb.

and then a man naturally ſearches every where for comfort; and if his heart then condemnes him not, it is great oddes but it is a holy peace.

4. Peace of minde is not to be uſed as a ſign that God hath pardoned our ſins, but is onely of uſe in queſtions of particular fact. What evils have I done? what good have I done? The peace that comes after this examination is holy and good. But if I have peace in theſe particulars, then *have I peace towards God alſo*, as to theſe particulars: But whether I have pardon for other ſins which I have committed, is another conſideration, and is always more uncertain. But even here alſo a peace of conſcience is a bleſſing that is given

given to all holy penitents more or leſs, at ſome time or other, according as their repentance proceeds, and their hope is exerciſed: But it is not to be judged of by ſenſe, and eaſe, but by its proper cauſes: It never comes but after fear, and labour, and prayers, and watchfulneſs, and aſſiduity; and then what ſucceeds is a bleſſing, and a fair indication of a bigger.

5. True peace of conſcience is always joyned with a holy fear; a fear to offend, and a fear of the Divine diſpleaſure for what we have offended; and the reaſon is, becauſe all peace that is ſo allayed is a peace after enquiry, a peace obtained by juſt inſtruments, relying upon proper grounds; it is rational, and holy, and humble; neither careleſneſs, nor preſumption is in it.

6. True peace of conſcience relies not upon popular noiſes, and is not a ſleep procured by the tongues of flatterers, or opinions of men, but is a peace from within, relying upon God and its own juſt meaſures. It is an excellent diſcourſe which *Seneca* hath, *Eſt aliquando gratus qui ingratus videtur, quæ mala interpres opinio in contrarium deducit. Hic quid aliud ſequitur, quàm ipſam conſcientiam quæ etiam obruta delectat, quæ concioni ac famæ reclamat, & in ſe omnia reponit, & cùm ingentem ex altera parte turbam contra-ſentientium aſpexit, non numerat ſuffragia, ſed unâ ſententiâ vincit?* "Some men are thankful, who "yet ſeem unthankful, being wronged by evil interpretation. But ſuch a man "what elſe does he follow but his conſcience, which pleaſes him, though it be "overborn with ſlander, and when ſhe ſees a multitude of men that think "otherwiſe, ſhe regards not, nor reckons ſuffrages by the poll, but is victori-"ous by her ſingle ſentence? But the excellency and great effect of this peace he afterwards deſcribes: *Si verò bonam fidem perfidiæ ſuppliciis affici videt, non deſcendit è faſtigio, ſed ſupra pœnam ſuam conſiſtit. Habeo inquit quod volui, quod petii. Non pœnitet, nec pœnitebit: nec ullâ iniquitate me eò fortuna perducet, ut hanc vocem audiam, Quid mihi volui? Quid mihi nunc prodeſt bona voluntas? prodeſt & in equuleo, prodeſt & in igne, qui ſi ſingulis membris admoveatur, & paulatim unum corpus circumeat; licèt ipſum corpus plenum bonâ conſcientiâ ſtillet, placebit illi ignis per quem bona fides collucebit.* A good conſcience loſes nothing of its confidence and peace for all the tortures of the world. The rack, the fire ſhall not make it to repent and ſay, what have I purchas'd? But its excellency and integrity ſhall be reſplendent in the very flames. And this is the meaning of the Proverb uſed by the Levantines, *Heaven and Hell are ſeated in the heart of man.* As his conſcience is, ſo he is happy, or extremely miſerable. *What other men ſay of us, is no more then what other men dream of us*, ſaid S. *Gregory Nazianzene*; It is our conſcience that accuſes or condemnes to all real events and purpoſes.

Lib. 4. de benefic. c. 21.

Orat. 25.

26. And now all this is nothing but a perſwaſion partly natural, partly habitual, of this propoſition which all the Nations, and all the men in the world have always entertained as the band of all their Religion, and private tranſactions of juſtice and decency, *Deum Remuneratorem eſſe*, that God is a juſt Rewarder of all actions. I ſumme up the premiſes in the words of the Orator; *Magna vis eſt conſcientiæ, Judices, & magna in utramque partem: ut neque timeant qui nihil commiſerint, & pœnam ſemper ante oculos verſari putent, qui peccarint.* On either ſide conſcience is mighty and powerful, to ſecure the innocent, and to afflict the criminal.

Cicero pro Milone.

27. But beyond theſe offices now deſcribed, Conſcience does ſometimes only [*Counſell*] a thing to be done; that is, according to its inſtruction, ſo it miniſters to holineſs. If God hath put a law into our minds, conſcience will force

obedience, or make us to ſuffer for our diſobedience; but if a propoſition tending to holineſs and its advantages be intruſted to the conduct of conſcience, then it preſſes it by all its proper inducements, by which it was laid up there, and leaves the ſpirit of a man to his liberty; but if it be not followed, it upbraids our weakneſſes, and chides our follies, and reproves our deſpiſing holy degrees, and greater excellencies of glory laid up for loving and willing ſpirits. Such as is that of *Clemens Alexandrinus* in the matter of an Evangelical Counſel; Οὐχ ἁμάρτανει μὲν ὁ ἁπλῶς καὶ οὕτως· ἐ γὰρ κωλύεται τοῦτο ποιεῖν ὑπὸ τοῦ κατὰ τὸ εὐαγγέλιον πολιτεύεσθαι· οὐ μὴν ἐφικνεῖται τῆς κατὰ τὸ εὐαγγέλιον πολιτείας κατ' ἐξοχὴν τελειότητος, He that does ſo and ſo, ſins not; for he is not forbidden by the law of the Goſpel; but yet he fals ſhort of the perfection that is deſigned and propounded to voluntary and obedient perſons. To ſumme up this.

28. When S. *Paul* had reproved the endleſs genealogies of the Gnoſticks and Platoniſts, making circles of the ſame things, or of divers whoſe difference they underſtood not; as *Intelligence*, *Fear*, *Majeſty*, *Foundation*, *Wiſdome*, *Magnificence*, *Mercy*, *Victory*, *Kingdome*, *Foundation*, *God*, and ſuch unintelligible ſtuff which would make fools ſtare, and wiſe men at a loſs; he ſubjoyns a ſhort, but a more diſcernible genealogy, and conjugation of things to our purpoſe. *The end of the Commandement is love out of a pure heart, and a good conſcience, and faith unfeigned:* that is, out of *an unfeigned faith* proceeds *a good conſcience*; that is, *abſtinence from ſin*; and from thence comes *purity of heart*, or a ſeparation from the trifling regards of the world, and all affections to ſin; and theſe all end in *charity*: that is, in peace, and joy, and the fruition and love of God, in Unions and Contemplations in the boſome of Eternity. So that *faith* is the firſt mover in the underſtanding part, and the next is *conſcience*, and they both purify the heart from falſe perſwaſions, and evil affections; and then they joyn to the production of *love* and of *felicity*.

1 Tim. 1. 5.
2 Tim. 2. 22.
2 Tim. 1. 3.
Heb. 9. 14.
10. 22.
13. 18.
1 Pet. 1. 5. 9.

Thus farre is the Nature and Offices of Conſcience: It will concern us next, to conſider by what General meaſures we are to treat our Conſcience that it may be uſeful to us in all the intentions of it, and in the deſigns of God.

RULE 3.

Be careful that prejudice or paſsion, fancy and affection, error or illuſion, be not miſtaken for Conſcience.

1. NOthing is more uſual, then to pretend *Conſcience* to all the actions of men which are publick, and whoſe nature cannot be concealed. If arms be taken up in a violent warre; inquire of both ſides, why they ingage on that part reſpectively? they anſwer, becauſe of their Conſcience. Ask a Schiſmatick why he refuſes to joyn in the Communion of the Church? he tels you, it is againſt his Conſcience: And the diſobedient refuſe to ſubmit to Laws; and they alſo in many caſes pretend Conſcience. Nay, ſome men ſuſpect their brother of a crime and are perſwaded (as they ſay) in Conſcience that he did it: and their Conſcience tels them that *Titius* did ſteal their goods, or that *Caia* is an adultereſs. And ſo Suſpicion, and Jealouſie, and Diſobedience, and Rebellion,

bellion are become *Conſcience*; in which there is neither knowledge, nor revelation, nor truth, nor charity, nor reaſon, nor religion. *Quod volumus ſanctum eſt*, was the Proverb of *Tichonius* and the *Donatiſts*.

Nemo ſuæ mentis motus non æſtimat æquos,
Quódque volunt homines ſe bene velle putant.

Proſper Epigr. de cohibenda ira.

Every mans way ſeems right in his own eyes; and what they think is not againſt Conſcience, they think or pretend to think, it is an effect of Conſcience, and ſo their fond perſwaſions and fancies are made ſacred, and Conſcience is pretended, and themſelves and every man elſe is abuſed. But in theſe caſes and the like, men have found a ſweetneſs in it to ſerve their ends upon Religion, and becauſe Conſcience is *the Religious Underſtanding*, or *the Minde of a man as it ſtands dreſs'd in and for Religion*, they think that ſome ſacredneſs or authority paſſes upon their paſſion or deſign, if they call it *Conſcience*.

2. But by this Rule it is intended that we ſhould obſerve the ſtrict meaſures of Conſcience. For an illuſion may make a Conſcience, that is, may oblige by its directive and compulſive power. Conſcience is like a King whoſe power and authority is regular, whatſoever counſel he follows. And although he may command fond things, being abuſed by flatterers, or miſ-information, yet the commandement iſſues from a juſt authority, and therefore equally paſſes into a Law; ſo it is in Conſcience. If error or paſſion dictates, the King is miſ-informed, but the inferiors are bound to obey; and we may no more diſobey our Conſcience commanding of evil things, then we may diſobey our King injoyning things imprudent and inconvenient. But therefore this Rule gives caution to obſerve the information and inducement, and if we can diſcern the abuſe, then the evil is avoided. For this Governour [*Conſcience*] is tied to Laws, as Kings are to the Laws of God and Nations, to Juſtice and Charity; and a mans Conſcience cannot be malicious: his *Will* may, but if the error be diſcovered, *the Conſcience*, that is, *the practical underſtanding* cannot. For it is impoſſible for a man to beleeve what himſelf finds to be an error: and when we perceive our Conſcience to be miſguided, the deception is at an end. And therefore to make up this Rule complete, *we ought to be ſtrict and united to our rule*, for by that onely we can be guided, and by the proportions to it we can diſcern *right* and *wrong*, when we walk ſafely, and when we walk by falſe fires. Concerning which, beſides the direct ſurvey of the rule and action, and the comparing each other, we may in caſes of doubt and ſuſpicion be helped by the following meaſures:

Advices for the practice of the former Rule.

3. 1. We are to ſuſpect our Conſcience to be miſ-informed when we are not willing to inquire into the particulars. He that ſearches, deſires to finde, and ſo farre takes the right courſe; for truth can never hurt a man, though it may prejudice his vice, and his affected folly. In the inquiries after truth, every man ſhould have a travellers indifferency, wholly careleſs whether this or that be the right way, ſo he may finde it. For we are not to chooſe the way becauſe it looks fair, but becauſe it leads ſurely. And to this purpoſe, the moſt hearty and particular inqueſt is moſt prudent and effective. But we are afraid of truth when we will not enquire, that is, when the truth is againſt our intereſt or paſſion, our luſt or folly, that is, ſeemingly againſt us, in the preſent indiſpoſition of our affairs.

4. 2. He that reſolves upon the concluſion before the premiſes, inquiring into particulars to confirm his opinion at aventures, not to ſhake it if it be falſe, or to eſtabliſh it onely in caſe it be true, unleſs he be defended by chance, is ſure to miſtake, or at leaſt can never be ſure whether he does or no.

This is to be underſtood in all caſes to be ſo unleſs the *particular unknown* be ſecured by a *general* that is *known*. He that beleeves Chriſts advocation and interceſſion for us in heaven upon the ſtock of Scripture, cannot be prejudic'd by this rule, although in the inquiries of probation, and arguments of the doctrine, he reſolve to beleeve nothing that ſhall make againſt his Concluſion; becauſe he is aſcertain'd by a propoſition that cannot fail him. The reaſon of this exception is this, becauſe in all diſcourſes which are not perfectly demonſtrative, there is one lame ſupporter, which muſt be help'd out by the better leg; and the weaker part does its office well enough, if it can bring us to a place where we may reſt our ſelves and rely. He that cannot chooſe for himſelf, hath choſen well enough if he can chooſe one that can chooſe for him; and when he hath, he may prudently rely upon ſuch a perſon in all particulars, where he himſelf cannot judge, and the other can, or he thinks he can, and cannot well know the contrary. It is eaſier to judge of the general lines of duty, then of minutes and particulars: and Travellers that are not well skill'd in all the little turnings of the ways, may confidently rely upon a Guide whom they chooſe out of the natives of the place; and if he underſtands the coaſt of the Country, he may well harden his face againſt any vile perſon that goes about wittily to perſwade him he muſt goe the contrary way, though he cannot anſwer his arguments to the contrary. A man may prudently and piouſly hold a concluſion which he cannot defend againſt a witty adverſary, if he have one ſtrong hold upon which he may rely for the whole queſtion; becauſe he derives his concluſion from the beſt ground he hath, and takes the wiſeſt courſe he can, and uſes the beſt means he can get, and chooſes the ſafeſt ways that are in his power. No man is bound to do better then his beſt.

5. 3. Illuſion cannot be diſtinguiſhed from Conſcience, if in our ſearch we take a wrong courſe and uſe incompetent inſtruments. He that will chooſe to follow the multitude which eaſily erres, rather then the wiſe Guides of ſouls; and a man that is his partner in the Queſtion rather then him that is diſ-intereſs'd, and them that ſpeak by chance, rather then them who have ſtudied the Queſtion, and a man of another Profeſſion, rather then him whoſe office and imployment it is to anſwer, hath no reaſon to be confident he ſhall be well inſtructed. *John Nider* tels an apologue well enough to this purpoſe: Two brethren travelling together, whereof one was eſteemed wiſe, and the other little better then a fool, came to a place where the way parted. The fooliſh brother eſpying one of them to be fair and pleaſant, and the other dirty and uneaven, would needs go that way, though his wiſer brother told him, that in all reaſon that muſt needs be the wrong way; but he followed his own eyes, not his brothers reaſon: and his brother being more kinde then wiſe, though againſt his reaſon, followed his fooliſh brother; they went on till they fell into the hands of theeves, who robb'd them and impriſoned them, till they could redeem themſelves with a ſumme of money. Theſe brothers accuſe each other before the King as author of each others evil. The wiſer complained that his brother would not obey him, though he was known to be wiſer, and ſpake reaſon. The other complain'd of him for following him that was a fool, affirming that he would have return'd back if he had ſeen his wiſe brother confident,

In Lavacro Conſcient.

fident, and to have followed his own reaſon. The King condemn'd them both; the fool becauſe he did not follow the direction of the wiſe, and the wiſe becauſe he did follow the wilfulneſs of the fool. So will God deal with us at the day of Judgement in the ſcrutinies of Conſcience. If appetite refuſes to follow reaſon, and reaſon does not refuſe to follow appetite, they have both of them taken incompetent courſes, and ſhall periſh together. It was wiſely ſaid of *Brutus* to *Cicero*, *Malo tuum judicium, quàm ex altera parte omnium iſtorum. Tu enim à certo ſenſu & vero judicas de nobis, quod iſti nè faciant, ſummâ malevolentiâ & livore impediuntur.* I preferre thy judgement ſingly, before all theirs, becauſe thou judgeſt by intuition of the thing; they cannot doe that, being hindred by envy and ill will. The particulars of reducing this advice to practice in all ſpeciall caſes, I ſhall afterwards enumerate; for the preſent, I ſay this onely, that a man may conſent to an evil authority, and reſt in a falſe perſwaſion, and be conducted by an abuſed conſcience, ſo long as the *Legiſlative Reaſon* is not conjoyn'd to the *Judge Conſcience*, that is, while by unapt inſtruments we ſuffer our perſwaſions to be determined.

Lib. 11. famil epiſt.

6. 4. That determination is to be ſuſpected that does apparently ſerve an intereſt, and but obſcurely ſerve a pious end,

Utile quod nobis do tibi conſilium,

Lib. 5. ep. 20. Mart.

when that appears, and nothing elſe appears, the reſolution or councel is to be conſidered warily before it be purſued. It is a great allay to the confidence of the bold talkers in the Church of *Rome*, and hinders their gain and market of proſelytes from among the wiſe and pious very much; that moſt of their propoſitions for which they contend ſo earneſtly againſt the other parts of Chriſtendome, do evidently ſerve the ends of covetouſneſs and ambition, of power and riches, and therefore ſtand vehemently ſuſpected of deſign and art, rather then of piety or truth of the article, or deſigns upon heaven. I inſtance in the Popes power over Princes and all the world; his power of diſpenſation; the exemption of the Clergy from juriſdiction of ſecular Princes; the doctrine of Purgatory and Indulgencies, by which once the Friers were ſet awork to raiſe a portion for a Lady, the Neece of Pope *Leo* the tenth; the doctrine of *Tranſubſtantiation*, by the effects and conſequence of which, the Prieſts are made greater then Angels, and next to God; and ſo is alſo that heap of doctrines, by the particulars of which the Eccleſiaſtical power is far advanced beyond the authority of any warrant from Scripture, and is made highly inſtrumental for procuring abſolute obedience to the Papacy. In theſe things every man with half an eye can ſee the temporal advantage; but how piety and truth ſhall thrive in the mean while, no eye hath yet been ſo illuminate as to perceive. It was the advice of *Ben Sirach*, *Conſult not with a woman touching her of whom ſhe is jealous, neither with a coward in matters of warre, nor with a Merchant concerning exchange, nor with a buyer of ſelling, nor with an envious man of thankfulneſs, nor with an unmerciful man touching kindneſs, nor with the ſlothful for any work, nor with the hireling for a year of finiſhing work, nor with an idle ſervant of much buſineſs; hearken not unto theſe in any matter of counſel.* Theſe will counſel by their intereſt, not for thy advantage.

Ecclus. 37. 11.

But it is poſſible that both truth and intereſt may be conjoyn'd; and when a Prieſt preaches to the people the neceſſity of paying Tithes, where they are by Law appointed, or when a poor man pleads for charity, or a man in debt urges the excellency of forgetfulneſs; the truth which they diſcourſe of, cannot be prejudiced by their proper concernments. For if the propoſi-

tion serves the ends in Religion, in providing for their personal necessities, their need makes the instances still the more religious, and the things may otherwise be proved. But when the end of piety is obscure, or the truth of the proposition is uncertain, then observe the biass; and if the mans zeal be bigger then the certainty of the proposition, it is to be estimated by the interest, and to be used accordingly.

But this is not to prejudice him that gives the counsel, for although the *Counsel is to be suspected*, yet *the man is not*, unless by some other indications he betray himself. For he may be heartily and innocently perswaded of the thing he counsels, and the more easily and aptly beleeve that against which himself did less watch, because he quickly perceiv'd it could not be against himself.

« Adde to this, the Counsel is the less to be suspected if it be ask'd, then « if it be offer'd. But this is a consideration of Prudence, not of Conscience directly.

7. 5. If the proposition serve or maintain a vice, or lessen a vertue, it is certainly not Conscience, but error and abuse; because no truth of God can serve Gods Enemy directly, or by its own force and perswasion. But *this is to be understood onely in case, the answer does directly minister to sin*, not if it does so onely *accidentally*. *Q. Furius* is married to *Valeria*, but she being fierce and imperious, quarrelsome and loud, and he peevish and fretful, turns her away that he might have peace and live in patience. But being admonished by *Hortensius* the Orator to take her again, he asked counsel of the Priests, and they advise him to receive her. He answers, that then he cannot live innocently, but in a perpetual state of temptation, in which he daily fals. The Priest replies, that it is his own fault; let him learn patience, and prudence; for his fault in this instance is no warranty to make him neglect a duty in another; and he answered rightly. If he had counsell'd him to drink intemperately to make him forget his sorrow, or to break her bones to make her silent, or to keep company with harlots to vex her into compliance, his counsel had ministred directly to sin, and might not be received.

8. 6. Besides the evidence of the thing, and a direct conformity to the Rule, to be judg'd by every sober person, or by himself in his wits, there is ordinarily no other collateral assurance, but an honest hearty endevour in our proportion, to make as wise inquiries as we can, and to get the best helps which are to be had by us, and to obey the best we doe make use of. To which (because a deception may tacitly creep upon our very simplicity) if we adde a hearty prayer, we shall certainly be guided thorough the labyrinth, and secured against our selves, and our own secret follies. This is the counsel of the son of *Sirach*; *Above all this; pray to the most high, that he will direct thy way in truth.*

Eccles 37. 15.

RULE 4.

The Conscience of a vicious man is an evil Judge, and an imperfect Rule.

1. THat I mean the *Superiour* and *Inferiour* part of *Conscience*, is therefore plain, because the Rule notes how the acts of Conscience may be made invalid both as it is a *Ruler*, and as it is a *Judge*. But according to the several offices this truth hath some variety.

1. The

2. 1. The ſuperiour part of Conſcience, or the συντήρησις repoſitory of practical principles (which for uſe and brevity ſake, I ſhall call the *phylactery*) or the Keeper of Records; that is, that part which contains in it all the natural and reaſonable principles of good actions, (ſuch as are, *God is to be worſhipped*, *Doe to others as they ſhould doe to thee*, *The pledge is to be reſtored*, *By doing harm to others thou muſt not procure thy own good*, and the like) is always a certain and regular Judge in the prime principles of reaſon and religion, ſo long as a man is in his wits, and hath the natural uſe of reaſon. For thoſe things which are firſt imprinted, which are univerſal principles, which are conſented to by all men without a Teacher, thoſe which *Ariſtotle* cals γονὰς ἐννοίας, thoſe are always the laſt removed, and never without the greateſt violence and perturbation in the world. But it is poſſible for a man to forget his Name and his Nature: a Lycanthropy made *Nebuchadnezar* to doe ſo, and a Fever made a learned Greek doe ſo: but ſo long as a mans reaſon is whole, not deſtroyed by its proper diſeaſe; that is, ſo long as a man hath the uſe of reaſon, and can and will diſcourſe, ſo long his conſcience will teach him the general precepts of duty; for they are imprinted in his nature, and there is *nothing natural* to the ſoul, if reaſon be not; and *no reaſon* is, unleſs its firſt principles be, and thoſe *firſt principles are moſt provided for*, which are the moſt perfective of a man, and neceſſary to his well being, and *thoſe are ſuch which concern the entercourſe between God and Man*, and between men in the firſt and greateſt lines of their ſociety. The very opening of this chain is a ſufficient proof, it is not neceſſary to intricate it by offering more teſtimony.

3. 2. But then theſe general principles are either to be conſidered as they are habitually incumbent on the minde, or as actually applied to practice. In the former ſenſe they can never be totally extinguiſhed, for they are natural and will return when ever a man ceaſes from ſuffering his greateſt violence; and thoſe violences which are ſo deſtructive of nature as this muſt be, that makes a man forget his being, will fall off upon every accident and change. *Difficile eſt perſonam diu ſuſtinere.* But then when theſe principles come to be applied to practice, a ſtrong vice and a malicious heart can draw a veil over them, that they ſhall not then appear to diſorder the ſenſual reſolution. A ſhort madneſs, and a violent paſſion, or a fit of drunkenneſs, can make a man ſecurely ſin by incogitancy, even when the action is in the matter of an univerſal principle. No man can be brought to that paſs, as to beleeve that God ought not to be honoured; but ſuppoſing there is a God, it is unavoidable, that this God muſt be honoured: but a tranſient and unnatural violence intervening in a particular caſe, ſuſpends the application of that principle, and makes the man not to conſider his Rule; and there he omits to worſhip and honour this God in many particulars to which the principle is applicable. But this Diſcourſe is coincident with that Queſtion, Whether Conſcience may be totally loſt? of which I have already given accounts. That and this will give light to each other. In Rule 1. numb. 5. & ſeq.

4. 3. But further, there are alſo ſome principles which are indeed naturally known, that is, by principles of natural reaſon: but becauſe they are not the immediate principles of our creation and proper being, they have the ſame *truth*, and the ſame *ſeat*, and the ſame *certainty*; but not the ſame *prime evidence*, and *connaturality* to the ſoul; and therefore theſe may be loſt, or obſcured to all purpoſes of uſefulneſs, and their contradictories may be admitted into the rule of Conſcience. Of this nature, I reckon, that *Fornication*, *violent and*

craſty

crafty contracts with many arts of deception, and overreaching our Brother, theft, incest in some kindes, drunkennesse, and the like, *are to be avoided.* For concerning these, it is certain that some whole Nations have so abused their Conscience by evil manners, that the Law in their minde hath been cancell'd, and these things have pass'd for lawful. And to this day, that Duels may be fought by private persons and authority, is a thing so practised by a whole sort of men, that it is believ'd, and the practice, and the belief of the lawfulness of it are interchangeably daughter and mother to each other. These are such of whom
Rom. 1. 28. the Apostle speaks, they are *given over to believe a lie*, they are delivered *to a reprobate minde.* And this often happens, and particularly in those cases wherein one sin is inferr'd by another naturally, or morally, or by withdrawing of the Divine grace.

5. 4. Wherever the Superiour or the Ruling part of Conscience is an imperfect Rule; in the same cases the Inferior is an evil Judge, that is, acquits the criminal, or condemnes the innocent, calling good evil, and evil good: which is to be understood when the perswasion of the erring conscience is permanent and hearty, not sudden, and by the rapid violence of a passion; for in this case the conscience condemnes as soon as that is acted, to which before the action it was cousened and betrayed: but it proceeds onely in abiding and lasting errors. And this is the cause why so many orders of persons continue in a course of sin with delight, and uninterrupted pleasure, thinking *Rebellion to be a just defence*, *Sacrilege a lawful title*, while other men that are otherwise and justly perswaded wonder at their peace, and hate their practices. Our blessed Lord foretold concerning the Persecutors of the Church, that they should *think they did God good service.* But such men have an evil portion, they sing in the fire, and go dancing to their graves, and sleep on till they be awakened in hell. And on the other side, this is because of superstition, and scruples, and sometimes of despairing and unreasonable fears, when the Conscience is abused by thinking that to be a sin, which is none.

RULE 5.

All Consciences are to walk by the same Rule, and that which is just to one, is so to all, in the like circumstances.

1. IF all men were governed by the same Laws, and had the same interest, and the same degrees of understanding, they would perceive the truth of this Conclusion. But men are infinitely differenced by their own acts and relations, by their Understandings and proper Oeconomy, by their superinduc'd differences and orders, by interest and mistake, by ignorance and malice, by sects and deceptions. And this makes that two men may be damned for doing two contradictories: as a Jew may perish for not keeping of his Sabbath, and a Christian for keeping it; an Iconoclast for breaking images, and another for worshipping them: for eating, and for not eating; for receiving the holy Communion, and for not receiving it; for comming to Church, or staying at home.

2. But this variety is not directly of Gods making, but of Mans. God commands us to walk by the same rule, and to this end, Τὸ ἀυτὸ φρονεῖν, *to be*

be of the ſame minde; and this is ἀκρίβεια ζωειδήσεως, the exactneſs of our Conſcience; which precept were impoſſible to be obſerved, if there were not one rule, and this rule alſo very eaſy. For ſome men have but a ſmall portion of reaſon and diſcretion, and they cannot help it; and yet the precept is incumbent upon them all alike; and therefore as the rule is one, ſo it is plain and eaſy, and written in every mans heart; and as every mans reaſon is the ſame thing, ſo is every mans conſcience; and this comes to be altered, juſt as that.

3. Neither is the unity of the Rule prejudic'd by the infinite difference of caſes For as a river ſpringing from the mountains of the Eaſt is tempted by the levels of the ground and the uneaſineſs of its paſſage, to make ſome turns backward toward its head, even while it intends Weſtward; ſo are the caſes of Conſcience branch'd out into inſtances, ſometimes of contrary proceedings, who are to be determin'd to croſs effects, but ſtill upon the ſame account. For in all things of the world the obligation is uniform, and it is of the ſame perſwaſion.

The caſe is this:

4. *Autolycus* robb'd the gardens of *Trebonius*, and ask'd him forgiveneſs and had it. But when *Trebonius* was choſen Conſul, and *Autolycus* robb'd him again, and was taken by others, and as a theef brought before him, he ask'd forgiveneſs again; but *Trebonius* condemn'd him to the Gallies: for he who being a private man was bound to forgive a repenting treſpaſſer, being a Magiſtrate was bound not to forgive him; and both theſe were upon the ſame account. A man may forgive an injury done to himſelf, becauſe it is his own right, and he may alone meddle in it; but an injury done to the Commonwealth, She onely could forgive, not her Miniſter. So,

5. He that faſted upon a Saturday in *Ionia* or *Smyrna* was a Schiſmatick; and ſo was he who did not faſt at *Milan* or *Rome* upon the ſame day, both upon the ſame reaſon;

Cùm fueris Romæ, Romano vivito more,
Cùm fueris alibi, vivito ſicut ibi.

becauſe he was to conform to the cuſtome of *Smyrna*, as well as to that of *Milan*, in the reſpective Dioceſſes.

6. To kill a man in ſome caſes defiles a land; in others it cleanſes it, and puts away bloud from the people: and it was plain in the caſe of circumciſion. S. *Paul* did it, and did it not; both becauſe he ought, and becauſe he ought not; and all upon the ſame account and law of charity. And therefore all inquiries, and all contentions, and queſtions ſhould be relations to the Rule, and be tried by nothing but a plain meaſure of Juſtice and Religion, and not ſtand or fall by relations to ſeparate propoſitions and diſtinct regards. For *that* is one and eaſy; *theſe* are infinite, uncertain, and contradictory. τοῦτ' ἔστι δ' αἴτιον τοῖς ἀνθρώποις πάντων τῶν κακῶν δ' τὰς προλήψεις τὰς κοινὰς μὴ δύασθαι ἐφαρμόζειν ἑκάστοις. It is a very great cauſe of miſchief not to be able to deduce general propoſitions, and fit them to particular caſes, ſaid *Arrianus*. But becauſe all men cannot, therefore there will be an eternal neceſſity of ſpiritual guides, whoſe imployment, and the buſineſs of their life muſt be to make themſelves able *reſpondere de jure*, to anſwer in matters of law, and they alſo muſt be truly informed in the matters of fact. In Epict. lib. 3. c. 26.

Rule 6.

In Conſcience that which is firſt is trueſt, eaſieſt, and moſt uſeful.

1. THere are ſome practices, which at the firſt ſight, and by the very name and nature of the things themſelves, ſeem as directly unreaſonable and againſt a Commandement, as any other thing of the fouleſt reproach; and yet object the ſin to the owners, and they will tell ſo many fine ſtories, and ſtruggle, and diſtinguiſh, and ſtate the queſtion in a new manner, and chop it into fragments, and diſguiſe the whole affair, that they do not onely content and beleeve themſelves, but alſo leſſen the confidence of the adverſary, and make a plain rule an uneaſy leſſon. I inſtance in the queſtion of images, the making of ſome of which, and the worſhipping of any, does at the firſt ſight as plainly daſh againſt the ſecond Commandement, as adultery does againſt the ſixth. But if you examine the practice of the Roman Church, and eſtimate them by the more wary determination of the Article in *Trent*, and weigh it by the diſtinctions and laborious devices of its Patrons, and beleeve their pretences and ſhews, it muſt needs be that you will abate ſomething of the reproof; and yet all the while the worſhip of images goes forward: and if you lay the Commandement over againſt the devices and diſtinctions, it will not be eaſy to tell what the Commandement does mean; and yet becauſe it was given to the meaneſt underſtandings, and was fitted for them, either the Conſcience is left without a clear rule, or that ſenſe is to be followed which ſtands neareſt the light, that which is next to the natural and proper ſenſe of the words. For it is certain God put no diſguiſes upon his own Commandements, and the words are meant plainly and heartily; and the further you remove from their firſt ſenſe, the more you have loſt the purpoſe of your rule. In matters of conſcience, that is the beſt ſenſe which every wiſe man takes in before he hath ſullied his underſtanding with the diſguiſes of ſophiſters, and intereſſed perſons; for then they ſpeak without prejudice and art, that is, ſo as they ſhould ſpeak, who intend to guide wiſe men, and all men.

2. But this is to be underſtood otherwiſe, when the firſt ſenſe of the words hath in its letter a prejudice open and eaſy to be ſeen; ſuch as is that of *putting out the right eie*, or *cutting off the hand*. The face is a vizor and a metaphor, and the heart of it onely is the Commandement, and that is to be underſtood by the meaſures of this rule, that is, the prime and moſt natural ſignification is the beſt, that which is of neareſt correſpondency to the metaphor and the deſign of the Speaker, and the occaſion and matter of the diſcourſe.

3. But in all things where the precept is given in the proper ſtyle of laws, and the vail is off, and the words are plain, he that takes the firſt ſenſe is the likelieſt to be well guided. If a war be commenced between a King and his People, he that is willing to reade his duty, may ſee it in the words of Chriſt and of three Apoſtles, and it is eaſy to know our duty; but when we are ingaged againſt our Prince, it is certain we are hugely put to it to make it lawful, and when our conſcience muſt ſtruggle for its rule, it is not ſo well as when it takes that which lies eaſy before us. Truth is eaſy, error is intricate and hard. If none but witty men could underſtand their duty, the ignorant and

ideot

ideot could not be ſaved; but in the event of things it will be found, that this mans Conſcience was better guided while ſimplicity held the taper, then by all the falſe fires of art, and witty diſtinctions. *Qui ambulat ſimpliciter, ambulat conſidenter*, ſaith *Solomon*. It is ſafer to walk upon plain ground, then with tricks and devices to dance upon the ropes.

RULE 7.

Conſcience by its ſeveral habitudes and relations, or tendencies toward its proper object, is divided into ſeveral kindes.

1. *Conſcience* in reſpect of its information, or as it relates to its object, taken materially, and in the nature of the thing, is either *True* or *Falſe*, *Right* or *Wrong*. *True* when it is rightly informed, and proceeds juſtly. *Falſe* when it is deceived. Between theſe as participating of either extreme, ſtands the *probable Conſcience*; which if we conſider as it relates to its object, is ſometimes *right*, and ſometimes *wrong*, and ſo may be reduc'd to either, according as it is in the event of things. For in two contradictories which are both probable, as if one be, both are, if one part be *true*, the other is *falſe*; and the conſcience of the ſeveral men holding the oppoſite parts, muſt be ſo too, that is, *right* and *wrong*, deceiv'd and not deceiv'd *reſpectively*. The diviſion then of Conſcience in reſpect of its object is tripartite.

2. For in all queſtions, if notice can be certainly had, he that gets the notice, hath a *True Conſcience*: He that miſſes it, hath a *Falſe* or *Erring Conſcience*. But if the notices that can be had be uncertain, imperfectly revealed, or weakly tranſmitted, or underſtood by halfs, or not well repreſented; becauſe the *underſtanding* cannot be *ſure*, the *conſcience* can be but *probable*. But according as the underſtanding is fortunate, or the man wiſe and diligent, and honeſt enough to take the right ſide of the probability, ſo the conſcience takes its place in the *Extreme*, and is reduc'd to *Right* or *Wrong* accordingly.

3. But to be *Right* or *Wrong*, is wholly extrinſecal to the *formal* obligation of *Conſcience*, as it is a Judge and a Guide, and to the conſequent duty of the Man. For an *erring conſcience* binds as much as the *right conſcience*, *directly* and *immediately*, and *collaterally* more; that is, the man who hath an *erring conſcience* is tied to more and other duties, then he that is in the *right*. The conſcience binds becauſe it is heartily perſwaded, not becauſe it is truly informed; not becauſe it is *right*, but becauſe it thinks ſo.

4. It does indeed concern the duty of Conſcience, and its felicity, to ſee that it be rightly inſtructed, but as to the conſequence of the action, it is all one: this muſt follow whatſoever goes before. And therefore although it concerns the man as much as his felicity, and all his hopes comes to, to take care that his conſcience be not abuſed in the matter of duty; yet a *Right* and a *Wrong conſcience* are not made diſtinct Guides and different Judges. Since therefore we are to conſider and treat of Conſcience, as it is the Guide of our actions, and Judge of our perſons, we are to take it in other aſpects, then by a direct face towards its object; the relation to which alone, cannot diverſify its kinde,

kinde, ſo much as to become an univerſal Rule to us in all caſes and emergencies.

Now becauſe intellectual habits imployed about the ſame general object, have no way to make them of different natures, but by their formal tendencies, and different manners of being affected with the ſame object; we are in order to the perfect diviſion and aſſignation of the kinds of conſcience, to conſider the Right Conſcience, either as it is *Sure*, or as it is onely *Confident*, but *not Sure*. For *an Erring conſcience* and *the Unerring* are the ſame *Judge*, and the ſame *Guide*, as to the *Authority*, and *Perſwaſion*, and as to the *effect* upon the *perſon*: but yet they differ infinitely in their *Rule*; and the *perſons* under their conduct differ as much in their *ſtate* and *condition*. But our *Conſcience* is not a good *Guide* unleſs we be truly informed and know it. For if we be *truly informed* and *know it not*, it is an *uncertain* and an *imperfect Guide*. But if we be *confident* and yet *deceived*, the uncertainty and hæſitation is taken off, but we are ſtill very *miſerable*. For we are like an erring Traveller, who being out of the way, and thinking himſelf right, ſpurs his horſe and runs full ſpeed: *he that comes behinde, is nearer to his journeys end.*

6. That therefore is the firſt kinde of Conſcience; *The Right Sure Conſcience*; and this alone is fit to be our *Guide*; but this alone is not our *Judge*.

7. 2. Oppoſite to this is the *Confident* or *Erring Conſcience*; that is, ſuch which indeed is miſ-informed, but yet aſſents to its object with the ſame confidence as does the Right and Sure; but yet upon differing grounds, motives, and inducements: which becauſe they are always criminal, although the aſſent is peremptory and confident, yet the deception is voluntary and vicious in its cauſe; and therefore the preſent confidence cannot warrant the action, it onely makes the ſinner bold. So that theſe two differ in their manner of entring into the aſſent; the one entring by the door, the other by the breaches of the wall. Good will, and Bad, Vertue and Vice, Duty and Sin, keeping the ſeveral keys of the perſwaſion and conſent.

8. This *Erring Conſcience* I therefore affirm to be always Voluntary and Vicious in its principle, becauſe all Gods laws are plain in all matter of neceſſary duty: and when all men are to be guided, learned and unlearned, the Rule is plain and eaſy, becauſe it is neceſſary it ſhould be ſo. But therefore if there happen any invincible ignorance, or involuntary deception, it is there where the Rule is not plain, and then the Matter is but *probable*, and then the Conſcience is according. And this makes the third kinde of Conſcience, in reſpect of the different manner of being affected with the object.

9. 3. *The Probable Conſcience* is made by that manner of aſſent to the object, which is indeed *without fear*, but *not without imperfection*. The thing it ſelf is of that nature, that it cannot properly make faith or certainty of adherence; and the underſtanding conſiders it as it is repreſented without any prejudice or prepoſſeſſion; and then the thing muſt be beleeved as it deſerves and no more: but becauſe it does not deſerve a *full aſſent*, it hath but *an imperfect one*; but it is perfect enough in its kinde, that is, it is as much as it ought to be, as much as the thing deſerves. Theſe are all the kinds of *Conſcience* that are *perfect*.

10. 4. But ſometimes the ſtate and acts of conſcience are imperfect; as the viſion of an evil eye, or the motion of a broken arm, or the act of an imperfect

or

or abuſed underſtanding: ſo the *conſcience* in ſome caſes is carried to its object but with an imperfect aſſent, and operates with a lame and deficient principle: and the cauſes of it are the vicious or abuſed affections, accidents or incidents to the Conſcience. Sometimes it happens that the arguments of both the ſides in a queſtion ſeem ſo indifferent, that the conſcience being affrighted and abuſed by fear and weakneſs dares not determine, and conſequently dares not doe any thing; and if it be conſtrain'd to act, it is determin'd from without, not by it ſelf, but by accidents and perſwaſion, by importunity or force, by intereſt or fear: and what ever the ingredient be, yet when it does act, it acts with fear, becauſe it reflects upon it ſelf, and conſiders it hath no warrant, and therefore whatever it does becomes a ſin. This is the calamity of *a doubting Conſcience*. * This *doubting* does not always proceed from the equality of the parts of the queſtion, but ſometimes wholly from want of knowing any thing of it: as if we were put to declare whether there were more men or women in the world? whether the number of the ſtarres were even or odde? ſometimes from inconſideration, ſometimes from ſurpriſe, ſometimes from confuſion and diſeaſe; but from what principle ſoever it be, there is always ſome fear in it. *This Conſcience can neither be a good Guide, nor a good Judge:* we cannot doe any thing by its conduct, nor be judg'd by it; for all that can be done before or after it, is not by it, but by the ſuppletories of the perfect conſcience.

11. 5. A leſs degree of this evil, is that which by the Maſters of moral Theology is called, *The ſcrupulous Conſcience*, which is not a diſtinct kinde of conſcience as is uſually ſuppoſed, but differs from the *doubting Conſcience* onely in the degrees of the evil. The doubt is leſs, and the fear is not ſo violent as to make it unlawful to doe any thing: ſomething of the doubt is taken off, and the man can proceed to action *without ſin*, but *not without trouble*; he is uneaſy and timorous even when he is moſt innocent; and the cauſes of this, are not onely portions of the ſame weakneſſes which cauſe the *doubting Conſcience*; but ſometimes *Superſtition*, and *Melancholy*, and *Puſillanimity* and *mean opinions of God* are ingredients into this imperfect aſſent: and in ſuch caſes, although the ſcrupulous man may act without ſin, and produce his part of the determination, yet his ſcruple is not innocent, but ſometimes criminal, but always calamitous. This is like *a mote in the eye*, but a doubt is like *a beam*.

12. *This Conſcience may be a right Guide, but dares not be a Judge:* it is like a Guide in the dark that knows the way, but fears every buſh; and becauſe he may erre, thinks he does. The effect of this imperfection is nothing but a heartleſs and uncomfortable proceeding in our duty, and what elſe the Devil can make of it, by heightning the evil and abuſing the man, who ſits upon a ſure foundation, but dares not truſt it: he cannot rely upon that, which yet he cannot disbeleeve.

13. 6. There are ſome other affections of Conſcience, and accidental appendages; but becauſe they doe not vary the manner of its being affected with its proper object, they cannot diverſify Conſcience into ſeveral kinds, as it is a *Guide* and *Judge* of Humane actions. But becauſe they have no direct influence upon our ſouls, and relate not to duty, but are to be conducted by rules of the other kinds, I ſhall here onely enumerate their kinds, and permit to Preachers to diſcourſe of their natures, and collateral obligations to duty, of their remedies and aſſiſtances, their advantages and diſadvantages reſpectively. Theſe alſo are five: 1. *The tender Conſcience.* 2. *The hardned or obdurate.* 3. *The quiet.* 4. *The reſtleſs or diſturbed.* 5. And laſtly, *The perverſe Conſcience.*

science. Concerning which, I shall at present say this onely: That the two first are seated principally in the Will, but have a mixture of *Conscience*, as *Docibility* hath of *Understanding*. The two next are seated in the *fancy*, or the affections, and are not properly plac'd in the *Conscience*, any more then *love* or *desire*; but yet from Conscience they have their birth. And for the last, it is a heap of irregular principles, and irregular defects, and is the same in *Conscience*, as *deformity* is in the *body*, or *peevishness* in the *affections*.

CHAP. II.

Of the Right or Sure Conscience.

RULE 1.

A right Conscience is that which guides our actions by right and proportion'd means to a right end.

THE *end* is, Gods glory, or any honest purpose of Justice or Religion, Charity or Civil conversation. Whatsoever is good for us, or our neighbours, in any sense perfective of our being as God purposed it, all that is our end. *The means* ought to be such as are apt instruments to procure it. If a man intends to live a severe life, and to attend Religion, his End is just and fair, and so far *his Conscience is right*: but if his Conscience suggest to him, that he to obtain his end should erect Colleges of Women; and in the midst of Feasts, and Songs, and Society, he should Preach the Melancholy Lectures of the Cross, *it is not right*; because the end is reach'd at by a contrary hand. But when it tels him, that to obtain continence he must fast and pray, watch diligently, and observe prudently, labour and read, and deny his appetite in its daily attempts upon him, then it is *a right Conscience*. For *a right Conscience* is nothing but *right Reason* reduc'd to practise, and conducting Moral actions. Now all that *right Reason* can be defin'd by, is the propounding a good end, and good means to that end.

RULE 2.

In a right Conscience, the practical judgement, that is, the last determination to an action, ought to be sure and evident.

1. THIS is plain in all the great lines of duty, in actions determinable by the prime principles of natural Reason, or Divine revelation; but it is true also in all actions conducted by a right and perfect Conscience. This relies upon all that account on which it is forbidden to doe actions of danger, or doubt, lest we perish in the danger, which are to be handled in their proper place. But for the present we are to observe, that in the question of actions, whose rule is not notorious and primely evident, there is or may be a double judgement.

The

2. The firſt judges the thing probable by reaſon of the differing opinions of men wiſe and pious; but in this there is a fear or ſuſpicion of the contrary, and therefore in *the direct act* nothing is certain. 2. But there is alſo a *reflex act of judgement*; which upon conſideration that it is certain that a probable action may lawfully be done; or elſe, that that which is but probable in the nature of the thing (ſo farre as we perceive it) may yet by the ſuperadding of ſome circumſtances, and prudential conſiderations, or by *equity*, or *neceſſity* become more then probable in the particular; although (I ſay) the Conſcience be uncertain in the direct act, yet it may be certain, right, and determin'd in the reflex and ſecond act of judgement; and if it be, it is innocent and ſafe, it is that which we call the *Right-ſure Conſcience.*

3. For in moral things there cannot ordinarily be a demonſtrative, or Mathematical certainty; and in Morality we call that *certain*, that is, a thing to be followed and choſen, which oftentimes is but *very highly probable*; and many things doe not attain that degree; and therefore, becauſe it is very often impoſſible, it is certainly not neceſſary that *the direct judgement* ſhould be ſure and evident in all caſes. Τὸ μὲν γὰρ ὁπόσιπτον ἀπόδειξιν· τέχνη δ' καὶ φρόνησις τυγχάνουσιν ὄσαι περὶ τὰ ἐνδεχόμενα ἄλλως ἔχειν, Science is of thoſe things which can be demonſtrated; but prudence [and conſcience] of things which are thus, or may be otherwiſe. But if it be not ſupplied in the reflex and ſecond act of judgement, ſo that the conſcience be either *certain in the object*, or *in the act*, the whole progreſs is a danger, and the product is criminal; the conſcience is doubtful, and the action is a ſin. Ariſtot. Ethic. lib. 6. cap. 6.

4. It is in this as is uſually taught concerning the Divine knowledge of things contingent; which although they are in their own nature fallible and contingent, yet are known certainly and infallibly by God, and according to the nature of the things, even beyond what they are in their natural, proper, and next cauſes: and there is a rare, and ſecret expreſſion of Chriſts incarnation uſed by S. *Paul* [*in whom dwelleth all the fulneſs of the Godhead bodily*] that is, the manner is contrary to the thing; the Godhead that is wholly *incorpereal* dwels in him *corporally*. After the like manner of ſignification is the preſent certainty I ſpeak of. If it be *not certain in the object*, it muſt be *certain in the faculty*, that is, at leaſt it muſt be a certain perſwaſion, though of an uncertain article: and we muſt be certain and fully perſwaded that the thing may be done by us lawfully, though whether the thing it ſelf be lawful, is at moſt but highly probable.

5. So that in effect it comes but to this: The knowledge that is here required, is but the fulneſs of perſwaſion, which is and ought to be in *a Right Conſcience*: οἶδα καὶ πέπεισμαι, *I know and am perſwaded in the Lord Jeſus*; ſo S. *Paul.* Rom. 14. 14. Our *knowledge* here, which is but *in part*, muſt yet be *a full confidence* for the matters of duty. The Concluſions then are theſe:

1. There muſt be a certainty of adherence in the actions of a right Conſcience.
2. It muſt alſo for the matter of it too, at leaſt be on the right ſide of the probability.

The conſcience muſt be confident, and it muſt alſo have reaſon enough ſo to be: or at leaſt, ſo much as can ſecure the confidence from illuſion; although poſſibly the Confidence may be greater then the Evidence, and the Concluſion bigger then the Premiſes. Thus the good ſimple man that about the time of the Nicene Councel confuted the ſtubborn and ſubtle Philoſopher

by a confident ſaying over his Creed: and the holy and innocent ideot, or plain eaſy people of the Laity, that cannot prove Chriſtianity by any demonſtrations, but by that of a holy life, and obedience unto death; they beleeve it ſo, that they put all their hopes upon it, and will moſt willingly prove it again by dying for it, if God ſhall call them. This is one of the excellencies of faith; and in all caſes where the mercies of God have conducted the man into the right, it is not ſubject to illuſion. But for that particular, I mean, that we be in the right, we are to take all that care which God hath put into our power; of which I have already ſaid ſomething, and ſhall give fuller accounts in its proper place.

Rule 3.

The practical judgement of a right Conſcience is always agreeable to the ſpeculative determination of the Underſtanding.

1. THIS Rule is intended againſt thoſe whoſe underſtanding is right in the propoſition, and yet declines in the application; it is true in *theſi*, but not in *hypotheſi*; it is not true when it comes to be their caſe: and ſo it is in all that ſin againſt their conſcience, and uſe little arts to evade the clamor of the ſin. They are right in the rule, and crooked in the meaſuring; whoſe folly is apparent in this, becauſe they deny in particular what they affirm in the general; and it is true in *all*, but not in *ſome*. *David* was redargued wittily by *Nathan* upon this account; he laid the caſe in a remote Scene: *Titius*, or *Sempronius*, a certain rich man, I know not who, ſome body or other *robb'd the poor man of his Ewe lamb.* Therefore ſaid *David* he ſhall die who ever he be. Yea, but you are the man: what then? ſhall he die ſtill? This is a new arreſt; it could not be denied, his own mouth had already given the ſentence.

2. And this is an uſual, but a moſt effective Art to make the conſcience right in the particular, by propounding the caſe ſeparate from its own circumſtances, and then to remove it to its own place is no hard matter. It was an ingenious device of *Eraſiſtratus* the Phyſician, of which *Appian* tells: "When "yong *Antiochus* almoſt died for love of *Stratonica* his Father *Seleucus* his Wife, "the Phyſician told the paſſionate and indulgent Father, that his ſon was ſick "of a diſeaſe, which he had indeed diſcovered, but found it alſo to be incu- "rable. *Seleucus* with ſorrow asking what it was? *Eraſiſtratus* anſwered, He "loves my wife. But then the old Kings hopes began to revive, and he "turn'd wooer in the behalf of his ſon, begging of the Phyſician who was his "Counſellor and his friend, for pity ſake, for friendſhip and humanity to give "his wife in exchange or redemption for the yong Kings life. *Eraſiſtratus* re- "plied, Sir you ask a thing too unreaſonable and great; and though you are "his Father, your ſelf would not do it, if it were your own caſe; and therefore "why ſhould I? when *Seleucus* ſwore by all his Country gods that he would "doe it as willingly as he would live; *Eraſiſtratus* drew the curtain of the de- "vice, and applied it to him, by telling, that the cure of his ſon depended upon "his giving the Queen *Stratonica* to him, which he did; and afterwards made "it as lawful as he could, by a Law poſtnate to that inſolent example, and "confirm'd it by military ſuffrages.

De bellis Syriacis.

In

3. In all caſes we are to conſider the rule, not the relation; the law, not the perſon: for if it be one thing in the propoſition, and another in the aſſumption, it muſt be falſe in one place or the other, and then the Conſcience is but an ill Guide, and an ill Judge.

4. This rule is not to extend to the exception of particular caſes; nor to take away privileges, pardons, equity. For that which is faſt in the propoſition, may become looſe in the particular by many intervening cauſes, of which I am to give account in its due place. For the preſent, this is certain, that, *Whatſoever particular is of the ſame account with the general, not ſeparate, or let looſe by that hand which firſt bound it, is to be eſtimated as the general.* But this Rule is to goe further alſo.

5. For hitherto, I have called the act of particular Conſcience directing to a ſingle and circumſtantiate action by the name of *Practical judgement*: and the general dictate of the συντήρησις, or Phylactery, or upper Conſcience, teaching the kinds of good actions, by the name of *Speculative judgement*. But the rule alſo is true, and ſo to be underſtood, when *practical* and *ſpeculative* are taken in their firſt and proper ſenſe. If in Philoſophy we diſcourſe that the True God, being a Spirit without ſhape or figure, cannot be repreſented by an image; although this be onely a ſpeculation, and demonſtrable in natural Philoſophy, and no rule of Conſcience; yet when Conſcience is to make a judgement concerning the picturing of God the Father, it muſt not determine practically againſt that ſpeculation. * *That an idol is nothing*, is demonſtrable in Metaphyſicks; and therefore that we are to make nothing of it, is a practical truth: and although the firſt propoſition be not directly plac'd in the upper region of conſcience, but is one of the prime *Metaphyſical* propoſitions, *not properly Theological*, according to thoſe words of S. *Paul*, *Concerning things ſacrific'd to idols, we know* ὅτι πάντες γνῶσιν ἔχομεν *that we all have knowledge; and we know that an idol is nothing in the world*; meaning, that this knowledge needs no revelation to atteſt it; we by our own reaſon and principles of demonſtration know that; yet, the lower, or particular practical Conſcience muſt never determine againſt that *extrinſecal*, and therefore (as to Conſcience) *accidental* meaſure. 1 Cor. 8. 1, 4.

6. For whatſoever is true in one Science, is true alſo in another, and when we have wiſely ſpeculated concerning the dimenſions of bodies, their circumſcriptions, the acts of ſenſe, the certainty of their healthful perceptions, the commenſuration of a place and a body: we muſt not eſteem theſe to be unconcerning propoſitions, if ever we come to uſe them in Divinity: and therefore we muſt not worſhip that which our ſenſes tell us to be a thing below worſhip; nor beleeve that *infinite* which we ſee *meaſured*; nor eſteem that greater then the heavens which I ſee and feel goes into my mouth. *If Philoſophy gives a skin, Divinity does not flea it off*: and truth cannot be contrary to truth; and God would not *in Nature* teach us any thing to miſguide us in the regions of *Grace*.

7. *The Caution* for conducting this propoſition is onely this: That we be as ſure of our ſpeculation, as of any other rule which we ordinarily follow; and that we do not take *vain Philoſophy*, for *true ſpeculations*. He that guides his conſcience by a principle of *Zeno*'s Philoſophy, becauſe he hath been bred in the Stoical ſect, and reſolves to underſtand his Religion to the

ſenſe of his Maſters Theoremes, does ill. The Chriſtian Religion ſuffered much prejudice at firſt by the weak diſputings of the Greeks; and they would not admit a Religion againſt the *Academy*, or the *Cynicks*, or the *Athenian* Schools; and the Chriſtian Schools drew ſome of their articles thorough the limbecks of *Plato's* Philoſophy, and to this day the reliſh remains upon ſome of them. And *Baronius* complains of *Origen*, that, *In Paganorum commentis enutritus, eáque propagare in animo habens, divinas ſe utique Scripturas interpretari ſimulavit: ut hoc modo nefariam doctrinam ſuam ſacrarum literarum monumentis malignè admiſcens, Paganicum & Manichaicum errorem ſuum atque Arrianam veſaniam induceret.* He mingled the Gentile Philoſophy with Chriſtian Religion, and by analogy to that, expounded this, and how many Diſciples he had, all the world knows. Nay not onely from the doctrine, but from the practiſes and rites of the Pagan Religion, many Chriſtians did derive their rites, and they in time gave authority and birth to ſome doctrines. *Vigilias anniverſarias habes apud Suetonium. Luſtralem aquam, aſperſionem ſepulchrorum, lumina in iiſdem parare, Sabbatho lucernam accendere, cereos in populum diſtribuere.* The ſtaff, the ring, the Mitre, and many other cuſtomes, ſome good, ſome onely tolerable, the Chriſtians took from the Gentiles; and what effect it might have, and what influence it hath had in ſome doctrines, is too notorious to diſſemble. *Thomas Aquinas* did a little change the Scene, and blended *Ariſtotle* ſo with School Divinity, that ſomething of the purity was loſt, while much of our Religion was exacted and conducted by the rules of a miſtaken Philoſophy. But if their ſpeculations had been right, Chriſtianity would at firſt have entred without reproof, as being the moſt reaſonable Religion of the world, and moſt conſonant to the wiſeſt and moſt ſublime ſpeculations; and it would alſo have continued pure, if it had been ſtill drawn from the fountains of our Saviour thorough the limbecks of the Evangeliſts and Apoſtles, without the mixture of the ſalt waters of that Philoſophy, which every Phyſician and witty man now adays thinks he hath reaſon and obſervation enough eaſily to reprove. But men have reſolved to verify their Sect rather then the truth; but if of this particular we be careful, we muſt then alſo verify every ſpeculation in all things where it can relate to practice, and is not altered by circumſtances.

A.D. annum 538. Sect. 4.

A.D. 44 p. 88.

8. As an appendage, and for the fuller explication of this Rule, it is a worthy inquiry which is by ſome men made, concerning the uſe of our reaſon in our Religion. For ſome men finding reaſon to be that guide which God hath given us, and concreated with us, know that Religion which is ſuperinduc'd, and comes after it, cannot prejudice that nobleſt part of this Creation. But then, becauſe ſome articles which are ſaid to be of faith, cannot be made to appear conſonant to their reaſon, they ſtick to this, and let that go. Here is a juſt cauſe of complaint. But therefore others ſay, that reaſon is a good guide in things reaſonable and humane, but our reaſon is blinde in things Divine, and therefore is of little or no uſe in Religion. Here we are to beleeve, not to diſpute. There are on both ſides fair pretences, which when we have examined, we may finde what part of truth each ſide aims at, and joyn them both in practiſe. *They that ſpeak againſt reaſon, ſpeak thus.*

9. 1. There is to every ſtate and to every part of man given a proportionable light to guide him in that way where he ought, and is appointed to walk. In the darkneſſes of this world, and in the actions of common life, the Sun and Moon in their proper ſeaſons are to give us light: In the actions of humane

mane entercourſe, and the notions tending to it, reaſon is our eye, and to it are notices proportion'd, drawn from nature and experience, even from all the principles with which our rational faculties uſually doe converſe. But becauſe a man is deſign'd to the knowledge of God, and of things ſpiritual, there muſt ſpring a new light from heaven, and he muſt have new capacities, and new illuminations; that is, new eyes, and a new light: For here the eye of Reaſon is too weak, and the natural man is not capable of the things of the Spirit, becauſe they are ſpiritually diſcerned. Faith is the eye, and the Holy Spirit gives the light, and the word of God is the lantern, and the ſpiritual not the rational man can perceive the things of God. *Secreta Dei, Deo meo, & filiis domus ejus.* God and Gods ſecret ones onely know Gods ſecrets.

10. 2. And therefore we finde in Holy Scripture that to obey God, and to love him, is the way to underſtand the myſteries of the kingdome. *Obedite & intelligetis*, If ye will obey, then ſhall ye underſtand: and it was a rare ſaying of our bleſſed Saviour, and is of great uſe and confidence to all who inquire after the truth of God, in the midſt of theſe ſad diviſions of Chriſtendome; If any man will doe his will he ſhall know whether the doctrine be of God or no. It is not fineneſs of diſcourſe, nor the ſharpneſs of arguments, or the witty rencontres of diſputing men that can penetrate into the myſteries of faith: the poor humble man that prays, and inquires ſimply, and liſtens attentively, and ſucks in greedily, and obeys diligently, he is the man that ſhall know the minde of the Spirit. And therefore S. *Paul* obſerves that the Sermons of the Croſs were *fooliſhneſs to the Greeks*; and conſequently, by way of upbraiding, he inquires, *Where is the wiſe man, where is the Scribe, where is the diſputer of the world? God hath made the wiſdome of the world fooliſhneſs*; that is, God hath confounded reaſon, that faith may come in her place. John 7. 17. 1 Cor. 1. 20.

11. 3. For there are ſome things in our Religion ſo myſterious, that they are above all our reaſon; and well may we admire but cannot underſtand them: and therefore the Spirit of God is ſent into the world to bring our underſtanding into the obedience of Chriſt; we muſt obey and not enquire, and every proud thought muſt be ſubmitted to him who is the wiſdome of the Father, who hath in the holy Scriptures taught us all his Fathers will. 2 Cor. 10. 5.

12. 4. And therefore as to this nothing can be added from the ſtock of nature, or principles of naturall reaſon, ſo if it did need a ſupply, reaſon could ill doe it. For the object of our faith muſt be certain and infallible; but no mans reaſon is ſo, and therefore to put new wine into broken bottles is no gain, or real advantage; and although right reaſon is not to be gainſaid, yet what is right reaſon is ſo uncertain, that in the midſt of all diſputes, every man pretends to it, but who hath it no man can tell, and therefore it cannot be a guide or meaſure of faith.

13. 5. But above all, if we will pretend to reaſon in Religion, we have but one great reaſon that we can be obliged to; and that is, to beleeve that whatſoever God hath ſaid is true: ſo that our biggeſt reaſon in Religion, is to ſubmit our reaſon, that is, not to uſe our reaſon in particular inquiries, but to captivate it in the whole. And if there be any particular inquiries, let them ſeem what they will to my reaſon it matters not; I am to follow God, not man; I may be deceived by my ſelf, but never by God. It is therefore ſufficient to me that it is in the Scriptures. I will inquire no further. This therefore is a

conclu-

concluding argument; *This is in Scripture, therefore this is true:* and *this is againſt Scripture, therefore it is abſurd, and unreaſonable.*

14. 6. After all, experience is our competent guide and warning to us: For we ſee when witty men uſe their reaſon againſt God that gave it, they in purſuit of reaſon go beyond Religion; and when by reaſon they look for God, they miſs him; for he is not to be found but by faith, which when they diſpute for, they finde not; becauſe ſhe is built and perſwaded by other mediums, then all Schools of Philoſophy to this day have taught. And it was becauſe of reaſon, that the Religion of Jeſus was ſo long oppos'd and hinder'd to poſſeſs the world. The Philoſophers would uſe their reaſon, and their reaſon would not admit this new Religion: and therefore S. *Paul* being to remove every ſtone that hindered, bad them to beware of *vain Philoſophy*; which does not diſtniguiſh one kinde of Philoſophy from another, but marks all Philoſophy. It is all vain, when the enquiries are into religious myſteries.

15. 7. For is it not certain that ſome principles of reaſon are againſt ſome principles of faith and Scripture? and it is but reaſon, that we ſhould hear reaſon where ever we finde it; and yet we are to have no entercourſe with Devils, though we were ſure they would tell us of hidden treaſures, or ſecrets of Philoſophy: and upon this account it is that all Genethliacal predictions, and Judicial Aſtrology is decried by all religious perſons; for though there be great pretenſions of reaſon and art, yet they being againſt religion and revelation are intolerable. In theſe and the like caſes, reaſon muſt put on her muffler, and we muſt be wholly conducted by revelation.

16. Theſe are the pretences againſt the uſe of reaſon in queſtions of Religion; concerning which the ſame account may be given, as is by the *Pyrrhonians* and *Scepticks* concerning their arguments againſt the certainty of ſciences. Theſe reaſons are like Phyſick, which if it uncertainly purges out the Humor, it moſt certainly purges out it ſelf: and theſe arguments either cannot prevail againſt the uſe of reaſon in Religion, or if they doe, they prevail againſt themſelves: For either it is againſt Religion to rely upon reaſon in Religion, or it is not: If it be not, then reaſon may without danger to Religion be ſafely relied upon in all ſuch enquiries. But if it be againſt Religion to rely upon reaſon, then certainly theſe reaſons intended to prove it ſo, are not to be relied upon; or elſe this is no queſtion of Religion. For if this be a queſtion of Religion, why are ſo many reaſons us'd in it? If it be no queſtion of Religion, then we may for all theſe reaſons to the contrary, ſtill uſe our reaſon in Religion without prejudice to it. And if theſe reaſons conclude right, then we may for theſe reaſons ſake truſt the propoſition which ſays, that in Religion reaſon is to be us'd; but if theſe reaſons doe not conclude right, then there is no danger, but that reaſon may ſtill be us'd, theſe arguments to the contrary notwithſtanding.

17. But there is more in it then ſo. This foregoing diſcourſe, or to the like purpoſe, is uſed by two ſorts of perſons; The one is by thoſe, who in deſtitution of particular arguments, make their laſt recourſe unto authority of men. For by how much more they preſs their own peremptory affirmative, by ſo much the leſs will they endure your reaſons and arguments for the negative. But to theſe men I ſhall onely ſay, Let God be true, and every man a liar: and therefore if we truſt men concerning God, we doe not truſt God concerning men; that is, if we ſpeak of God as men pleaſe, we doe not think of men

as

as God hath taught us; *viz. That they are weak, and that they are liars:* and they who have by artifices, and little devices, acquir'd to themſelves a reputation, take the leſs care for proving what they ſay, by how much the greater credulity that is, by which men have given themſelves up to be poſſeſs'd by others. And if I would have my ſaying to prevail whether it be right or wrong, I ſhall the leſs endure that any man ſhould uſe his own reaſon againſt me. And this is one of the great evils for which the Church of *Rome* hath given Chriſtendome a great cauſe to complain of her, who not onely preſſes men to beleeve or to ſubmit to what ſhe ſays upon her own authority, without enduring them to examine whether ſhe ſays true or no, but alſo requires as great an aſſent to what ſhe cannot prove, as to what ſhe can; requiring an adherence not leſs then the greateſt, even to thoſe things which ſhe onely pretends to be able to prove by prudential motives. Indeed in theſe caſes if they can obtain of men to bring their faith, they are ſafe; but to come accompanied with their reaſon too, that is dangerous.

18. The other ſort of men, is of thoſe who doe the ſame thing under another cover; for they not having obtain'd the advantages of Union or Government, cannot pretend to a privileged authority, but reſolving to obtrude their fancies upon the world, and yet not being able to prove what they ſay, pretend the Spirit of God to be the author of all their theoremes. If they could prove him to be their author, the thing were at an end, and all the world were bound to lay their necks under that pleaſant yoke; but becauſe they cannot prove any thing, therefore it is that they pretend the Spirit for every thing: and if the noiſe of ſo ſacred a Name will perſwade you, you are within the ſnare; if it will not, you are within their hatred. But it is impoſſible that theſe men can prevail, becauſe there are ſo many of them; It is as if there were twenty Mountebanks in the *Piazza*, and all ſaying they had the onely Antidote in the world for Poiſon; and that what was not theirs, was not at all, and yet all pretend ſeverally. For all men cannot have the Spirit, unleſs all men ſpeak the ſame thing: It were poſſible that even in Union they might be deceivers; but in Diviſion they cannot be right; and therefore ſince all theſe men pretend the Spirit, and yet all ſpeak ſeverall things and contradictory, they doe well to deſire of us not to uſe our reaſon, for if we doe, they can never hope to prevail; if we doe not, they may perſwade, as they meet with fools, that were not poſſeſs'd before.

19. Between theſe two there is a third that pretends to no authority on one hand, nor Enthuſiaſm on the other; but offers to prove what he ſays, but deſires not his arguments to be examined by reaſon, upon pretence that he urges Scripture; that is in effect, he muſt interpret it; but your reaſon ſhall not be judge whether he ſays right or wrong: for if you judge his interpretation, he ſays you judge of his argument, and make reaſon Umpire in queſtions of faith: and thus his ſect is continued, and the ſyſtemes of Divinity rely upon a certain number of propoſitions from generation to generation, and the Scholar ſhall be no wiſer then his Maſter for ever; becauſe he is taught to examine the doctrines of his Maſter by his Maſters arguments, and by no other. In effect, they all agree in this, they would rule all the world by Religion, and they would have no body wiſer then themſelves, but be fools and ſlaves, till their turn come to uſe others as bad as they have been uſed themſelves: and therefore as the wolves offered peace to the ſheep upon condition they would put away their dogs; ſo doe theſe men allow us to be Chriſtians

and

and Diſciples, if we will lay aſide our reaſon, which is that guard of our ſouls, whereby alone we can be defended againſt their tyrannies and pretenſions.

20. That I may therefore ſpeak cloſe to the enquiry, I premiſe theſe conſiderations:

1. It is a weak and a trifling principle, which ſuppoſes *faith* and *reaſon* to be oppoſite: For *faith* is but one way, by which our reaſon is inſtructed, and acquires the proper notices of things. For our reaſon or underſtanding apprehends things three ſeveral ways: The firſt is called νόησις, or the firſt notices of things abſtract, of principles and the *primò intelligibilia*; ſuch as are, *The whole is greater then the half of the whole*; *Good is to be choſen*; *God is to be loved*: *Nothing can be and not be at the ſame time*; for theſe are objects of the ſimple underſtanding, congenite notices, concreated with the underſtanding. The ſecond is called Διάνοησις, or diſcourſe, that is, ſuch conſequents and emanations which the underſtanding draws from her firſt principles. And the third is πίστις, that is, ſuch things which the underſtanding aſſents to upon the report, teſtimony, and affirmation of others, *viz.* by arguments extrinſecal to the nature of the thing, and by collateral and indirect principles. For example, I naturally know *that an idol or a falſe God is nothing*; this is νόησις, or the act of abſtract and immaterial reaſon. From hence I inferre, that *an idol is not to be worſhipped*: This my reaſon knows by Διάνοησις, or *illation* and inference, from the firſt principle. But therefore that *all monuments of idolatry are to be deſtroyed* was known to the Jews by πίστις, for it was not primely known, nor by the direct force of any thing that was primely known; but I know it from God by the teſtimony of *Moſes*, into the notice of which I am brought by collateral arguments, by tradition, by miracle, by voices from heaven, and the like.

21. 2. Theſe three ways of knowing, are in all faculties ſacred and prophane: for faith and reaſon doe not divide *Theology* and *Philoſophy*, but in every Science reaſon hath notices all theſe ways. For in natural Philoſophy there are *prime principles*, and there are *concluſions* drawn from thence, and *propoſitions* which we beleeve from the *authority* of *Plato*, or *Socrates*, or *Ariſtotle*; and ſo it is in Theology; for every thing in Scripture is not in the divided ſenſe, *a matter of faith*: That the Sun is to rule the day, the Moon and the Stars to govern the night, I ſee and feel; That *God is good*, that *he is one*, are prime principles: that *nothing but good is to be ſpoken of this good God*, reaſon draws by a διάνοησις or diſcourſe and illation: but *that this good God will chaſtiſe his ſons and ſervants*, and that afflictions ſent upon us are the iſſues of his goodneſs, or that *this one God, is alſo three in perſon*, this is known by πίστις, or by beleef; for it is not a prime truth, nor yet naturally inferred from a prime truth, but told by God, and therefore is an object of faith; reaſon knows it by teſtimony, and by indirect and collateral probations.

22. 3. Reaſon knows all things as they are to be known, and enters into its notices by inſtruments fitted to the nature of things. Our ſtock of principles is more limited then our ſtock of words; and as there are more things then words, ſo there are more ways of knowing, then by principles *direct* and *natural*. Now as God teaches us many things by natural principles, many by experience, many at firſt, many more in time; ſome by the rules of one faculty, ſome by the rules of another; ſo there are ſome things which deſcend upon us immediately from heaven, and they communicate with no principle, with no matter, with no concluſion here below. Now as in the other things we

muſt

muſt come to notices of things, by deriving them from their proper fountains; ſo muſt we doe in theſe. He that ſhould goe to revelation to prove that nine and nine makes eighteen, would be a fool; and he would be no leſs, that goes about to prove a Trinity of perſons by natural reaſon. Every thing muſt be derived from its own fountain. But becauſe theſe things which are derivatives from heaven, and communicate not at all with principles of Philoſophy, or Geometry, yet have their proper fountains, and theſe fountains are too high for us to ſearch into their bottome, we muſt plainly take all emanations from them, juſt as they deſcend. For in this caſe, all that is to be done, is to enquire from whence they come. If they come from natural principles, I ſearch for them by direct arguments: If they come from higher, I ſearch for them by indirect arguments; that is, I enquire onely for matter of fact, whether they come thence or no. But here my reaſon is ſet on work; firſt, I enquire into the teſtimony or ways of probation, if they be worth beleeving in what they ſay, my reaſon ſucks it in. As if I be *told* that God ſaid [*there are three and one in heaven*] I ask, who ſaid it? is he credible, why? If I finde that all things ſatisfy my reaſon, I beleeve him ſaying that God ſaid ſo; and then πίστις or *faith* enters. I beleeve the thing alſo, not becauſe I can prove it directly, for I cannot, but I can prove it indirectly; teſtimony and authority is my argument, and that is ſufficient. The Apoſtles entred into much of their faith by their ſenſes, they ſaw many articles of their Creed; but as they which ſaw and beleeved were bleſſed, ſo they which ſee not, but are argued and diſputed into their faith, and beleeve what they finde reaſonable to beleeve, ſhall have the reward of their faith, while they wiſely follow their reaſon.

23. 4. Now in all this, here is no difference in my reaſon, ſave that as it does not prove a Geometrical propoſition by moral Philoſophy, ſo neither does it prove a revelation by a natural argument, but into one and the other it enters by principles proper to the inquiſition; and *faith* and *reaſon* are not oppoſed at all. *Faith* and *natural reaſon* are ſeveral things, and Arithmetical and Moral reaſons are as differing, but it is *reaſon* that carries me to objects of *faith*, and *faith* is my reaſon ſo diſpoſed, ſo uſed, ſo inſtructed.

The reſult of theſe propoſitions is this one:

24. That into the greateſt myſteriouſneſs of our Religion, and the deepeſt articles of faith we enter by our reaſon: Not that we can prove every one of them by natural reaſon, for to ſay that, were as vain, as to ſay we ought to prove them by Arithmetick or Rules of Muſick; but whoſoever beleeves wiſely and not by chance, enters into his faith by the hand of reaſon; that is, he hath cauſes and reaſons why he beleeves. He indeed that hath reaſons inſufficient and incompetent, beleeves indeed not wiſely, but for ſome reaſon or other he does it; but he that hath none, does not beleeve at all: For the underſtanding is a rational faculty, and therefore every act of the underſtanding is an act of the rational faculty, and that is an act of reaſon; as viſion is of the viſive faculty: And faith, which is an act or habit of the underſtanding conſenting to certain propoſitions for the authority of the ſpeaker, is alſo as much an act of reaſon, as to diſcourſe in a propoſition of *Ariſtotle*. For *faith* aſſenting to a propoſition for a reaſon drawn *à teſtimonio*, is as very a diſcourſe, as to aſſent to a propoſition for a reaſon drawn from the nature of things. It is not leſs an act of reaſon, becauſe it uſes another topick. And all this is plain and certain, when we diſcourſe of *faith formally* in its proper and natural capacity, that is, as it is a reception of propoſitions *à teſtimonio*.

Indeed

25. Indeed if we conſider *faith* as it is a habit infuſed by God, and by Gods holy Spirit, ſo there is ſomething more in it then thus: For ſo, *faith* is a vital principle, a magazine of ſecret truths, which we could never have found out by natural reaſon, that is, by all that reaſon which is born with us, and by all that reaſon that grows with us, and by all ſecular experiences and converſations with the world; but of ſuch things which God onely teaches, by ways ſupernatural and divine.

26. Now here is the cloſe and ſecret of the Queſtion, Whether or no faith in this ſenſe, and materially taken, be contrary to our worldly or natural reaſon, or whether is any or all the propoſitions of faith to be exacted, interpreted, and underſtood according to this reaſon materially taken? that is, are not our reaſons which we rightly follow in natural Philoſophy, in Metaphyſicks, in other Arts and Sciences, ſometimes contrary to faith? and if they be, whether ſhall be followed? or can it in any ſenſe be an article of faith, if it be contrary to right reaſon? I anſwer to this, by ſeveral propoſitions.

27. 1. *Right Reaſon* (meaning our right reaſon, or humane reaſon) *is not the affirmative or poſitive meaſure of things Divine*, or of articles and myſteries of faith; and the reaſons are plain: 1. Becauſe many of them depend upon the free will of God, for which, till he gives us reaſons, we are to be ſtill and ſilent, admiring the ſecret, and adoring the wiſdome, and expecting till the curtain be drawn, or till *Elias* come and tell us all things. But he that will inquire and pry into the reaſon of the Myſtery, and becauſe he cannot perceive it, will disbeleeve the thing, or undervalue it, and ſay it is not at all, becauſe he does not underſtand the reaſon of it, and why it ſhould be ſo, may as well ſay that his Prince does not raiſe an Army in time of peace, becauſe he does not know a reaſon why he ſhould; or that God never did ſuffer a brave Prince to die ignobly, becauſe it was a thouſand pities he ſhould. There is a *ragione di ſtato*, and a *ragione di regno*, and *a ragione di cielo*, after which none but fools will inquire, and none but the humble ſhall ever finde.

28. Who can tell why the Devil, who is a wiſe and intelligent creature, ſhould ſo ſpitefully, and for no end but for miſchief, tempt ſo many ſouls to ruine, when he knows it can doe him no good, no pleaſure, but phantaſtick? or who can tell why he ſhould be delighted in a pleaſure that can be nothing but phantaſtick, when he knows things by *intuition*, not by *phantaſm*, and hath no low conceit of things as we have? or why he ſhould doe ſo many things againſt God, whom he knows he cannot hurt, and againſt ſouls, whoſe ruine cannot adde one moment of pleaſure to him? and if it makes any change, it is infinitely to the worſe: That theſe things are ſo, our Religion tels us; but our reaſon cannot reach it why it is ſo, or how: Whoſe reaſon can give an account why, or underſtand it to be reaſonable, that God ſhould permit evil for good ends, when he hates that evil, and can produce that good without that evil? and yet that he does ſo we are taught by our Religion: Whoſe reaſon can make it intelligible, that God who delights not in the death of a ſinner, but he and his Chriſt, and all their Angels rejoyce infinitely in the ſalvation of a ſinner, yet that he ſhould not cauſe that every ſinner ſhould be ſaved, working in him a mighty and a prevailing grace, without which grace he ſhall not in the event of things be ſaved, and yet this grace is wholly his own production.

—*Omni-*

——Omnipotens hominem cùm gratia ſalvat
Ipſa ſuum conſummat opus, cui tempus agendi
Semper adeſt quæ geſta velit, non moribus illi
Fit mora, non cauſis anceps ſuſpenditur ullis.

Proſper c. 15. de ingrat.

Why does not he work in us all to will and to doe, not onely that we can will, but that we ſhall will? for if the actual willing be any thing, it is his creation; we can create nothing, we cannot will unleſs he effect it in us, and why he does not doe that which ſo well pleaſes him, and for the want of the doing of which he is ſo diſpleaſed, and yet he alone is to doe it ſome way or other; humane reaſon cannot give a wiſe or a probable account.

Nam priùs immites populos urbéſque rebelles,
Vincente obſtantes animos pietate, ſubegit;
Non hoc conſilio tantùm hortatúque benigno
Suadens atque docens, quaſi normam legis haberet
Gratia, ſed mutans intus mentem atque reformans,
Váſque novum ex fracto fingens, virtute creandi.
Non iſtud monitus legis, non verba prophetæ,
Non præſtata ſibi præſtat natura, ſed unus
Quod fecit reficit. Percurrat Apoſtolus orbem,
Prædicet, hortetur, plantet, riget, increpet, inſtet,
Quáque viam verbo reſeratam invenerit, intret;
Ut tamen his ſtudiis auditor promoveatur
Non doctor neque diſcipulus, ſed gratia ſola
Efficit——————————.

Proſp. de præd. l. 3. cap. 8.

Where is the wiſe Diſcourſer, that can tell how it can be, that God foreknows certainly what I ſhall doe ten years hence, and yet it is free to me at that time, to will or not to will, to doe or not to doe that thing? Where is the diſcerning Searcher of ſecrets, that can give the reaſon why God ſhould determine for ſo many ages before, that *Judas* ſhould betray Chriſt, and yet that God ſhould kill him eternally for effecting the Divine purpoſe, and fore-determined counſel? Well may we wonder that God ſhould waſh a ſoul with water, and with bread and wine nouriſh us up to immortality, and make real impreſſes upon our ſpirits by the bloud of the vine, and the kidneys of wheat; but who can tell why he ſhould chooſe ſuch mean inſtruments to effect ſuch glorious promiſes? ſince even the greateſt things of this world had not been diſproportionable inſtruments to ſuch effects, nor yet too great for our underſtanding; and that we are fain to ſtoop to make theſe mean elements be even with our faith, and with our underſtanding. Who can divine, and give us the cauſe, or underſtand the reaſon, why God ſhould give us ſo great rewards for ſuch nothings, and yet damne men for ſuch inſignificant miſchiefs, for thoughts, for words, for ſecret wiſhes, that effect no evil abroad, but onely might have done, or it may be were reſolved to be unactive? For if the goodneſs of God be ſo overflowing in ſome caſes, we in our reaſon ſhould not expect, that in ſuch a great goodneſs, there ſhould be ſo great an aptneſs to deſtroy men greatly for little things: and if all mankinde ſhould joyn in ſearch, it could never be told, why God ſhould adjudge the Heathen or the Iſraelites to an eternal hell, of which he never gave them warning, nor created fears great enough, to produce caution equal to their danger; and who can give a reaſon why for temporal and tranſient actions of ſin, the world is to expect never ceaſing torments in hell to eternal ages? That theſe things are thus, we are taught in Scripture, but here our reaſon is not inſtructed to tell why or

how; and therefore our reaſon is not the poſitive meaſure of myſteries, and we muſt beleeve what we can not underſtand.

29. Thus are they to be blamed, who make intricacies and circles in myſterious articles, becauſe they cannot wade thorough them; it is not to be underſtood why God ſhould ſend his holy Son from his boſome to redeem us, to pay our price; nor to be told why God ſhould exact a price of himſelf for his own creature; nor to be made intelligible to us, why he who loved us ſo well, as to ſend his Son to ſave us, ſhould at the ſame time ſo hate us, as to reſolve to damne us, unleſs his Son ſhould come and ſave us. But the *Socinians* who conclude that this was not thus, becauſe they know not how it can be thus, are highly to be reproved for their exceſs in the inquiries of reaſon, not where ſhe is not a competent Judge, but where ſhe is not competently inſtructed; and that is the ſecond reaſon.

30. 2. The reaſon of man is a right Judge always when ſhe is truly informed; but in many things ſhe knows nothing but the face of the article: the myſteries of faith are oftentimes like Cherubims heads placed over the Propitiatory, where you may ſee a clear and a bright face and golden wings, but there is no *body* to be handled; there is light and ſplendor upon the brow, but you may not graſp it; and though you ſee the revelation clear, and the article plain, yet the reaſon of it we cannot ſee at all; that is, the whole knowledge which we can have here is dark and obſcure; *We ſee as in a glaſs darkly*, ſaith S. *Paul*, that is, we can ſee *what*, but not *why*, and what we doe ſee is the leaſt part of that which does not appear; but in theſe caſes our underſtanding is to ſubmit, and wholly to be obedient, but not to inquire further. *Delicata eſt illa obedientia quæ cauſas quærit.* If the underſtanding will not conſent to a revelation, until it ſee a reaſon of the propoſition, it does not obey at all, for it will not ſubmit, till it cannot chooſe. In theſe caſes, Reaſon and Religion are like *Leah* and *Rachel:* Reaſon is fruitful indeed, and brings forth the firſt-born, but ſhe is blear-ey'd, and oftentimes knows not the ſecrets of her Lord; but *Rachel* produces two children, *Faith* and *Piety*, and *Obedience* is *Midwife* to them both, and *Modeſty* is the *Nurſe.*

31. From hence it follows, that we cannot ſafely conclude thus, *This is agreeable to right reaſon, therefore this is ſo in Scripture*, or *in the counſel of God*; not that one reaſon can be againſt another, when all things are equal, but that the ſtate of things, and of diſcourſes is imperfect; and though it be right reaſon in ſuch a conſtitution of affairs, yet it is not ſo in others; that a man may repel force by force, is right reaſon, and a natural right, but yet it follows not, that it can be lawful for a private Chriſtian to doe it, or that Chriſt hath not forbidden us to ſtrike him that ſtrikes us: The reaſon of the difference is this; In nature it is juſt that it be ſo, becauſe we are permitted onely to natures proviſions, and ſhe hath made us equal, and the condition of all men indifferent; and therefore we have the ſame power over another, that he hath over us; beſides, we will doe it naturally, and till a Law forbad it, it could not be amiſs, and there was no reaſon in nature to reſtrain it, but much to warrant it. But ſince the Law of God hath forbidden it, he hath made other proviſions for our indempnity, and where he permits us to be defenceleſs (as in caſes of Martyrdome and the like) he hath promiſed a reward to make infinite amends: So that *we may repel force by force*, ſays *Nature*, *we may not*, ſays *Chriſt*, and yet they are not two contradictory propoſitions. For nature ſays

we

we may, when otherwiſe we have no ſecurity, and no reward for ſuffering; but Chriſt hath given both the defence of Laws and Authority, and the reward of heaven, and therefore in this caſe it is reaſonable. And thus we cannot conclude, This man is a wicked man becauſe he is afflicted, or his cauſe is evil becauſe it does not thrive; although it be right reaſon, that good men ought to be happy and proſperous; becauſe although reaſon ſays right in it, yet no reaſon can wiſely conclude, that therefore ſo it ſhould be in this world, when faith and reaſon too tell us it may be better hereafter. The reſult is this, every thing that is above our underſtanding, is not therefore to be ſuſpected or disbeleeved, neither is any thing to be admitted that is againſt Scripture, though it be agreeable to right reaſon, until all information is brought in, by which the ſentence is to be made.

32. For as it happens in dreams and madneſs, where the argument is good, and the diſcourſe reaſonable oftentimes; but becauſe it is inferred from weak phantaſms, and trifling and imperfect notices of things, and obſcure apprehenſions, therefore it is not onely deſultorious and light, but inſignificant, and farre from miniſtring to knowledge: ſo it is in our reaſon as to matters of Religion, it argues well and wiſely, but becauſe it is from trifling, or falſe, or uncertain principles, and unſure information, it oftentimes is but a witty nothing: reaſon is an excellent limbeck, and will extract rare quinteſſences, but if you put in nothing but muſhromes, or eggeſhels, or the juice of coloquintida, or the filthy gingran, you muſt expect productions accordingly, uſeleſs or unpleaſant, dangerous or damnable.

33. 2. Although *right reaſon* is not the poſitive and affirmative meaſure of any article, yet *it is the negative meaſure of every one.* So that, whatſoever is contradictory to right reaſon, is at no hand to be admitted as a myſtery of faith, and this is certain upon an infinite account.

34. 1. Becauſe nothing can be true and falſe at the ſame time, otherwiſe it would follow that there could be two truths contrary to each other: for if the affirmative be true, and the negative true too, then the affirmative is true and is not true, which were a perfect contradiction, and we were bound to beleeve a lie, and hate a truth; and yet at the ſame time, obey what we hate, and conſent to what we disbeleeve: No man can ſerve two ſuch Maſters.

35. 2. Out of truth nothing can follow but truth; whatſoever therefore is truth, this is therefore ſafe to be followed, becauſe no error can be the product of it. It follows therefore, that by beleeving one truth, no man can be tied to disbeleeve another. Whatſoever therefore is contrary to right reaſon, or to a certain truth in any faculty, cannot be a truth, for one truth is not contrary to another: if therefore any propoſition be ſaid to be the doctrine of Scripture, and confeſſed to be againſt right reaſon, it is certainly not the doctrine of Scripture, becauſe it cannot be true, and yet be againſt what is true.

36. 3. All truths are emanations and derivatives from God, and therefore whatſoever is contrary to any truth, in any faculty whatſoever, is againſt the truth of God, and God cannot be contrary to himſelf; for as God is one, ſo truth is one; for truth is Gods eldeſt daughter, and ſo like himſelf, that God may as well be multiplied, as abſtracted truth.

37. 4. And for this reaſon God does not onely prove our Religion, and Jeſus Chriſt prove his Miſſion by Miracles, by Holineſs, by verification of Prophecies, and prediction of future Contingencies, and voices from heaven, and apparition of Angels, and Reſurrection from the grave, and fulfilling all that was ſaid of him by the Prophets, that our faith might enter into us by diſcourſe, and dwell by love, and be nurſed and ſupported by reaſon: but alſo God is pleaſed to verify his own proceedings, and his own propoſitions, by diſcourſes meerly like ours, when we ſpeak according to right reaſon. Thus God convinces the peeviſh people that ſpake evil of him, by arguing concerning the juſtice of his ways, and expoſes his proceedings to be argued by the ſame meaſures and proportions by which he judges us, and we judge one another.

Iſa. 1. 18. & 5. 3. Ezek. 18. 25.

38. 5. For indeed how can it be poſſibly otherwiſe? how can we confeſs God to be juſt if we underſtand it not? but how can we underſtand him ſo, but by the meaſures of juſtice? and how ſhall we know *that*, if there be two Juſtices, one that we know, and one that we know not, one contrary to another? if they be contrary, they are not juſtice; for *juſtice* can be no more oppoſed by *juſtice*, then *truth* to *truth*: if they be not contrary, then that which we underſtand to be juſt in us, is juſt in God, and that which is juſt once, is juſt for ever in the ſame caſe, and circumſtances: and indeed how is it that we are in all things of excellency and vertue to be like God, and to be meek like Chriſt, *to be humble as he is humble*, and to *be pure like God*, to be juſt after his example, to be *merciful as our heavenly Father is merciful?* If there is but one Mercy, and one Juſtice, and one Meekneſs, then *the meaſure* of theſe, and the *reaſon* is eternally the ſame. If there be two, either they are not eſſential to God, or elſe not imitable by us: And then how can we *glorify God*, and *ſpeak honour of his Name*, and *exalt his juſtice*, and *magnify his truth*, and *ſincerity*, and *ſimplicity*, if *truth*, and *ſimplicity*, and *juſtice*, and *mercy* in him is not that thing which we underſtand, and which we are to imitate? *To give an example.* I have promiſed to give my friend a 100. pounds on the Calends of *March*: The day comes, and he expects the donative; but I ſend him anſwer, that I did promiſe ſo by an open promiſe and ſignification, and I had an inclination to doe ſo; but I have alſo a ſecret will to keep my money, and inſtead of that to give him a 100. blows upon his back: if he reproaches me for an unjuſt and a falſe perſon; I have nothing to anſwer, for I beleeve he would hardly take it for good paiment to be anſwered with a diſtinction, and told; I *have* two wils, *an open*, and *a ſecret will*, and they are contrary to each other: he would tell me that I were a falſe perſon for having two wills, and thoſe two wills were indeed but one, nothing but a will to deceive and abuſe him. Now this is reaſon, right reaſon, the reaſon of all the world, the meaſure of all mankinde, the meaſure that God hath given us to underſtand, and to walk, to live, and to practiſe by. And we cannot underſtand what is meant by hypocriſy, and diſſembling, if to ſpeak one thing and not to mean it, be not that hypocriſy. Now put caſe God ſhould call us to give him the glory of his juſtice and ſincerity, of the truth of his promiſes, and the equity of his ways, and ſhould tell us, That we periſh by our own fault, and if we will die, it is becauſe we will, not becauſe we muſt; becauſe we chooſe it, not becauſe he forces us; for he calls us, and offers us life and ſalvation, and gives us powers, and time and advantages, and deſires it really, and endevours it paſſionately, and effects it materially, ſo farre as it concerns his portion: This is a certain evidence of his truth and juſtice; But if we can reply and ſay, It is true, O God, that thou doſt call us, but doſt never intend we ſhould come, that thy open will is loving

ving and plauſible, but thy ſecret will is cruell, decretory and deſtructive to us whom thou haſt reprobated; that thy open will is ineffective, but thy ſecret will onely is operative, and productive of a material event, and therefore although we are taught to ſay, Thou art juſt, and true in all thy ſayings, yet certainly it is not that juſtice which thou haſt commanded us to imitate and practiſe, it is not that ſincerity which we can ſafely uſe to one another, and therefore either we men are not juſt when we think we are, or elſe thou art not juſt who doeſt and ſpeakeſt contrary things, or elſe there are two contrary things which may be called juſtice.

39. For let it be conſidered as to the preſent inſtance; God cannot have two wills, it is againſt the unity of God, and the ſimplicity of God. If there were two Divine wills, there were two Gods; and if it be one will, then it cannot at the ſame time will contrary things; and if it does not, then when God ſays one thing, and yet he wills it not, it is becauſe he onely wills to ſay it, and not to doe it; and if to ſay this thing of the good, the juſt, the true, the righteous Judge of all the world be not blaſphemy, I know not what is.

40. The purpoſe of this inſtance is to exemplify, that in all vertues and excellencies there is a perfect unity: and becauſe all is originally and eſſentially in God, and from him derived to us, and all our *good*, our *mercy*, our *truth*, our *juſtice* is but an imitation of his, it follows demonſtratively, that what is unjuſt in men, and what is falſhood in our entercourſes, is therefore falſe or unjuſt, becauſe it is contrary to the eternal pattern: and therefore whatſoever our reaſon does rightly call *unjuſt*, or *hypocriſy*, or *falſhood* muſt needs be infinitely farre from God; and thoſe propoſitions which aſperſe God with any thing of this nature, are ſo farre from being the word of God, or an article of faith, or a myſtery of religion, that it is blaſphemous and falſe, hateful to God and good men.

41. In theſe things there is the greater certainty, becauſe there is the leſs variety and no myſtery; theſe things which in God we adore as Attributes, being the lines of our Duty, the limits and ſcores we are to walk by; therefore as our reaſon is here beſt inſtructed, ſo it cannot eaſily be deceived, and we can better tell what is right reaſon in theſe things, then in queſtions not ſo immediately relative to duty and morality.

42. But yet this Rule alſo holds in every thing where reaſon is, or can be right; but with ſome little difference of expreſſion, but generally thus:

43. 1. Whatſoever right reaſon ſays cannot be done, we cannot pretend from Scripture, that it belongs to Gods Almightineſs to doe it; it is no part of the Divine Omnipotency, to doe things contradictory; for that is not to be done which is not, and it is no part of power to doe that which is not an act or effect of power. Now in every contradictory, one part is a *non-entity*, a *nothing*, and therefore by power cannot be produced; and to ſuppoſe it producible or poſſible to be effected by an Almighty power, is to ſuppoſe an Almighty power to be no power, or to doe that which is not the effect of power.

44. But I need ſay no more of this, for all men grant it, and all ſects and varieties of Chriſtians indevour to clear their articles from inferring contradictions, as implicitely confeſſing, that it cannot be true to which any thing that is

true is contradictory. Onely ſome men are forced by their intereſt and opinions to ſay, that although to humane reaſon ſome of their articles ſeem to have in them contradictions, yet it is the defect of their reaſon, and their faith is the more excellent, by how much reaſon is more at a loſs. So doe the Lutherans about the Ubiquity of Chriſts body, and the Papiſts about Tranſubſtantiation, and the Calviniſts about abſolute Reprobation, as being reſolved upon the propoſitions, though heaven and earth confute them. For if men can be ſafe from argument with ſuch a little artifice as this, then no error can be confuted, then there is nothing ſo abſurd but may be maintained, and a mans reaſon is uſeleſs in inquiry and in probation; and (which is to me very conſiderable) no man can in any article be a heretick or ſin againſt his conſcience. For to ſpeak againſt the words of Scripture, is not directly againſt our conſcience, there are many ways to eſcape, by interpretation or authority; but to profeſs an article againſt our reaſon, is immediately againſt our conſcience; for reaſon and conſcience dwell under the ſame roof, and eat the ſame portions of meat, and drink the ſame chalice: The authority of Scripture is ſuperinduced, but right reaſon is the eternal word of God; *The kingdome of God that is within us*; and the beſt portions of Scripture, even the Law of Jeſus Chriſt, which in moral things is the eternal law of Nature, is written in our hearts, is *reaſon*, and *that wiſdome* to which we cannot chooſe but aſſent, and therefore in whatſoever he goes againſt his reaſon, he muſt needs goe againſt his conſcience, becauſe he goes againſt that, by which he ſuppoſes God did intend to govern him, reaſon not having been placed in us as a ſnare and a temptation, but as a light and a ſtarre to lead us by day and night. It is no wonder that men maintain abſurd propoſitions, who will not hear great reaſon againſt them, but are willing to take excuſes and pretences for the juſtification of them.

45. 2. This is not to be underſtood, as if God could doe nothing but what we can with our reaſon comprehend or know how. For God can doe every thing, but we cannot underſtand every thing: and therefore infinite things there are, or may be, which our reaſon cannot maſter; they are above our underſtanding, but are to be entertained by faith. It is not to be ſaid or beleeved that God can doe what right reaſon ſays cannot be: but it muſt be ſaid and beleeved that God can doe thoſe things to which our underſtanding cannot by all its powers miniſtred here below, attain. For ſince God is omnipotent, unleſs we were omniſcient, we could not underſtand all that he can doe; but although we know but little, yet we know ſome propoſitions which are truths taught us by God, and they are the meaſures whereby we are to ſpeak and beleeve concerning the works of God.

46. For it is to be conſidered, whatſoever is above our underſtanding, is not againſt it: *ſupra* and *ſecundùm* may conſiſt together in ſeveral degrees: Thus we underſtand the Divine power of working miracles, and we beleeve and know God hath done many: and although we know not how our dead bones ſhall live again, yet our reaſon tels us, that it is within the power of God to effect it; and therefore our faith need not be troubled to beleeve it. But if a thing be againſt our underſtanding, it is againſt the work of God, and againſt a truth of God, and therefore is no part, and it can be no effect of the Divine power: Many things in nature are above our underſtanding, and no wonder if many things in grace are ſo too; *The peace of God paſſeth all underſtanding*, yet we feel ſomething of it, and hope for more, and long for all, and beleeve what we yet cannot perceive. But I conſider further:

There

47. There are ſome things in reaſon which are certainly true, and ſome things which reaſon does infallibly condemne: our bleſſed Saviours argument was certain, *A ſpirit hath not fleſh and bones as ye perceive me to have*; therefore *I am no ſpirit*: and S. *Johns* argument was certain, *That which we have ſeen with our eyes, and heard with our ears, and which our hands have handled of the word of life, that we preach*, that is, we are to beleeve what we ſee and hear and feel; and as this is true in the whole Religion, ſo it is true in every article of it. If *right ſenſe* and *right reaſon* tell us clearly, that is, tell us ſo that there is no abſurdneſs, or contradiction, or unreaſonableneſs in it, we are to beleeve it, as we are to beleeve God; and if an Angel from heaven ſhould tell us any thing againſt theſe propoſitions, I doe not doubt but we would reject him. Now if we inquire what things are certainly true or falſe; I muſt anſwer that in the firſt place I reckon, prime principles and contradictions. In the next place, thoſe things which are manifeſtly abſurd: but if it be asked further, which things are manifeſtly abſurd, and what it is to be manifeſtly abſurd? there can no more anſwer be given to this, then to him who asks, how ſhall I know whether I am in light or in darkneſs? If therefore it be poſſible for men to dote in ſuch things as theſe, their reaſon is uſeleſs in its greateſt force and higheſt powers: It muſt therefore be certain, that if the parts of a contradiction, or a right reaſon be put in bar againſt a propoſition, it muſt not pretend to be an article of faith; and to pretend Gods omnipotency againſt it, is to pretend his power againſt his truth: God can deliver us from our enemies, when to humane reaſon it ſeems impoſſible, that is, when we are deſtitute of all natural help, and proper cauſes and probabilities of eſcape, by what we ſee or feel; that is, when it *is impoſsible to men*, it may be *poſsible with God*; but then the faith which beleeves that God can doe it, is alſo very right reaſon: and if we hope he will doe it, there is more then faith in it, but there is nothing in it beyond reaſon, except love alſo be there.

48. The reſult is this: 1. Our reaſon is below many of the works, and below all the power of God, and therefore cannot perceive all that God hath, or can, or will doe, no more then an Owl can ſtare upon the body of the Sun, or tel us what ſtrange things are in that immenſe globe of fire. But when any thing that is poſſible is revealed, reaſon can conſent; but if reaſon cannot conſent to it when it is told of it, then it is nothing, it hath no being, it hath no poſſibility; whatſoever is in our underſtanding is in being: for that which is not, is not intelligible, and to what reaſon cannot conſent, in that no being can be ſuppoſed.

49. 2. Not onely what is impoſſible to reaſon is poſſible in faith, but if any thing be really abſurd or unreaſonable, that is, againſt ſome truth, in which humane reaſon is really inſtructed, that is a ſufficient preſumption againſt a propoſition, that it cannot be an article of faith. For even this very thing (I mean) an avoiding of an abſurdity, or an inconvenience, is the onely meaſure and rule of interpreting very many places of Scripture. For why does not every Chriſtian pull out his right eye, or cut off his hand, and leg, that he might enter into heaven halt and blinde? why doe not we beleeve that Chriſt is a door, and a vine, and a ſtone, ſince theſe things are dogmatically affirmed in Scripture? but that we expound Scriptures as we confute them who deny principles, by declaring that ſuch ſenſes, or opinions introduce evil and fooliſh conſequents, againſt ſome other truth in ſome faculty or other in which humane reaſon is rightly taught. Now the meaſure and the limit of this, is that very thing which is the reaſon of this, and all the preceding diſcourſe,

One truth cannot be againſt another; if therefore your opinion or interpretation be againſt a truth, it is falſe, and no part of faith. A *commandement* cannot be againſt a *revelation*, a privilege cannot be againſt a promiſe, a threatning cannot mean againſt an article, a *right* cannot be againſt a *duty*; for all reaſon, and all right, and all truth, and all faith, and all commandements are from God, and therefore partake of his *unity* and his *ſimplicity*.

50. 3. This is to be enlarged with this advice, that in all queſtions of the ſenſe of Scripture, the ordinary way is to be preſumed before the extraordinary, and if the plain way be poſſible, and reaſonable, and uſeful, and the extraordinary of no other uſe, but to make wonder and ſtrangeneſs to the beleef of the underſtanding, we are to preſume for that, and to let this alone, becauſe that hath the advantage of reaſon, it being more reaſonable that God will keep the methods of his own creation, and bring us to him by ways with which we are acquainted, and by which we can better underſtand our way to him, then that he will doe a miracle to no purpoſe, and without neceſſity; God never doing any thing for the oſtentation, but very many things for the manifeſtation of his power, for his wiſdome and his power declare each other, and in every thing where he ſhews his mightineſs, he alſo ſhews his wiſdome, that is, he never does any thing without great reaſon. And therefore the *Romans* doctrine of the holy Sacrament ſuffers an intolerable prejudice, becauſe it ſuppoſes daily heaps and conjugations of miracles, wholly to no purpoſe; ſince the real body can be taken by them to whom it does no good; and all the good can be conveyed to us, though the body be onely taken in a ſpiritual ſenſe; all the good being conveyed by moral inſtruments, and to ſpiritual effect; and therefore the ordinary way, and the ſenſe which the Church of *England* gives, is infinitely to be preferred, becauſe it ſuppoſes no violences and effects of miracles, no cramps and convulſions to reaſon: and a man may receive the holy Sacrament, and diſcourſe of all its effects, and myſteriouſneſſes, though he doe not talk like a mad man, or a man going out of his wits, and a ſtranger to all the Reaſon and Philoſophy of the world; and therefore it is remarkable, that there is in our faith no article, but what is poſſible to be effected by the ordinary power of God; That a Virgin ſhould conceive is ſo poſſible to Gods power, that it is poſſible in nature ſay the Arabians; but however, he that made the Virgin out of nothing, can make her produce ſomething out of ſomething: and for the reſurrection of the dead, it is certainly leſs then the Creation, and it is like that which we ſee every year, in the reſurrection of plants and dead corn, and is in many degrees imitable by Art, which can out of aſhes raiſe a flower. And for all the other articles of our Creed, they are ſo far from being miraculous and ſtrange to reaſon, that the greateſt wonder is, that our beleef is ſo ſimple and facile, and that we ſhall receive ſo great and prodigious events hereafter, by inſtruments ſo fitted to the weakeſt capacities of men here below. Indeed ſome men have ſo ſcorn'd the ſimplicity of the Goſpel, that becauſe they thought it honourable to have every thing ſtrange and unintelligible, they have put in devices and dreams of miracles of their own, and have ſo explicated them, that as without many miracles they could not be verified, ſo without one, they can hardly be underſtood. That which is eaſy to reaſon, and moſt intelligible, is more like the plainneſs, and truth, and innocence, and wiſdome of the Goſpel, then that which is bones to Philoſophy, and iron to the teeth of babes.

51. But this is to be practiſed with caution; for every mans reaſon is not right, and every mans reaſon is not to be truſted: and therefore,

4. As

4. As abſurd fooliſh things are not to be obtruded, under the pretence of being myſteries, ſo neither muſt miſtaken Philoſophy, and falſe notices of things be pretended for reaſon. There are miſtakes on all hands, ſome Chriſtians explicate their myſteries, and mince them into ſo many minutes, and niceties, and ſpeak of them more then they are taught, more then is ſaid in the Scriptures, or the firſt Creeds, that the article which in its own ſimplicity was indeed myſterious, and not to be comprehended by our dark and leſs inſtructed reaſon, but yet was not impoſſible to be beleeved, is made impoſſible to be underſtood by the appendages, and expoſed to ſcorn and violences by hereticks and misbeleevers; ſo is the Incarnation of the Son of God, the myſterious Trinity, the preſence of Chriſt in the holy Sacrament. For ſo long as the myſteries are ſignified in ſimple, wiſe, and general terms, reaſon can eſpy no particular impoſſibilities in them: but when men will explicate what they cannot underſtand, and intricate what they pretend to explicate, and ſuperinduce new clauſes to the article, and by entring within the cloud, doe leſs ſee the light, they finde reaſon amazed, where ſhe could eaſily have ſubmitted, and clouds brought upon the main article, and many times the body it ſelf is ſuppoſed to be a phantaſm, becauſe of its tinſel and fairy dreſſing: and on the other ſide, he that would examine an article of faith, by a propoſition in Philoſophy, muſt be careful that his Philoſophy be as right as he pretends. For as it will be hard to expect, that right reaſon ſhould ſubmit to a falſe article, upon pretence it is revealed, ſo it will be as hard to diſtruſt an article, becauſe it is againſt a falſe propoſition, which I was taught in thoſe Schools of learning who ſpeak things by cuſtome, or by chance, or becauſe they are taught, and becauſe they are not ſuffered to be examined. Whoever offers at a reproof of reaſon, muſt be ſure that he is right in the article, and that muſt be upon the ſtrength of ſtronger reaſon; and he that offers by reaſon to reprove a pretended article, muſt be ſure his reaſon muſt be greater then the reverence of that pretenſion.

52. And therefore holy Scriptures command us in thoſe caſes to ſuch purpoſes, as not onely teach us what to doe in it, but alſo confirm the main inquiry; for therefore we are commanded to *try all things*: Suppoſe that be meant that we try them by Scriptures; how can we ſo try them, but by comparing line with line, by conſidering the conſequents of every pretence, the analogy of faith, the meaſures of juſtice, the laws of nature, eſſential right, and prime principles? and all this is nothing but by making our *faith* the *limit of our reaſon*, in matters of duty to God; and *reaſon the miniſter of faith*, and things that concern our duty. The ſame is intended by thoſe other words of another Apoſtle, *Beloved, beleeve not every ſpirit, but try if the ſpirits be of God*; how can this be tried? by Scripture? yea; but how if the Queſtion be of the ſenſe of Scripture, as it is generally at this day? Then it muſt be tried by ſomething extrinſecal to the Queſtion, and whatſoever you can call to judgement, reaſon muſt ſtill be your *Sollicitor* and your *Advocate* and your *Judge*; onely reaſon is not always the *Law*, ſometimes it is, for ſo our bleſſed Saviour was pleaſed to ſay, *Why of your ſelves doe you not judge that which is reaſonable?* for ſo δίκαιον there is uſed, that which is fitting and conſonant to reaſon; and in proportion to this it was, that ſo much of the Religion of Jeſus was clothed with Parables, as if the theoremes and propoſitions themſelves were clothed with fleſh and bloud, and converſed after the manner of men, to whom reaſon is the Law, and the Rule, the Guide and the Judge, the meaſure of good and evil for this life, and for that which is to come. The conſequent is this: Luke 12. 57.

He

He that ſays thus, *This doctrine is againſt the word of God, and therefore it is abſurd and againſt reaſon*, may as it fals out ſay true; but his propoſition will be of no uſe, becauſe reaſon is before revelation, and that this is revealed by God, muſt be proved by reaſon. But,

54. He that ſays, *This is abſurd, or this is againſt reaſon, therefore this is againſt the word of God*, if he ſays true in the antecedent, ſays true in the conſequent, and the argument is uſeful in the whole, it being the beſt way to interpret difficult Scriptures, and to eſtabliſh right ſenſes, and to confute confident hereſies. For when both ſides agree that theſe are the words of God, and the queſtion of faith is concerning the meaning of the words, nothing is an article of faith, or a part of the religion, but what can be proved by reaſons to be the ſenſe and intentions of God. Reaſon is never to be pretended againſt the clear ſenſe of Scripture, becauſe by reaſon it is that we came to perceive that to be the clear ſenſe of Scripture. And againſt Reaſon, reaſon cannot be pretended; but againſt the words of Scripture produced in a queſtion, there may be great cauſe to bring reaſon; for nothing ſeems plainer then thoſe words of S. *James*, *Above all things my brethren, ſwear not at all*; and yet reaſon interpoſes and tels us, that plain words muſt not be underſtood againſt plain reaſon and plain neceſſity: For if oaths before Magiſtrates were not permitted and allowed, it were neceſſary to examine all men by torture; and yet neither ſo could they ſo well be ſecured of truth as they can by ſwearing. What is more plain then the words of S. *Paul*? νεκρώσατε τὰ μέλη ὑμῶν τὰ ὄντα ἐπὶ τῆς γῆς, *mortify* or kill *your members, that are upon the earth*; and yet reaſon tels us, that we muſt not hurt or deſtroy one limb, and where ever the effect would be intolerable, there the ſenſe is ſtill unreaſonable; and therefore not a part of faith, ſo long as it is an enemy to reaſon, which is the elder ſiſter, and the guide and guardian of the yonger.

55. For as when the Tables of the Law were broken by *Moſes*, God would make no new ones, but bade *Moſes* provide ſome ſtones of his own, and he would write them over: ſo it is in our Religion, when God with the finger of his Spirit, writes the Religion and the Laws of Jeſus Chriſt, he writes them in the tables of our reaſon, that is, *in the tables of our hearts*. *Homo cordatus*, a wiſe, rational man, ſober, and humble, and diſcurſive hath the beſt *faith*, but the ἄτοποι (as S. *Paul* cals them) *the unreaſonable*, they are ſuch who *have no faith*, 2 *Theſſ.* 3. 2. For the Chriſtian Religion is called by S. *Paul* λογικὴ λατρεία, *a reaſonable worſhip*; and the word of God is called by S. *Peter* γάλα λογικὸν ἄδολον, *the reaſonable* and *uncrafty milk*; it is full of *reaſon*, but it hath no *tricks*, it is *rational*, but *not crafty*, it is wiſe and holy: And he that pretends there are ſome things in our Religion, which right reaſon cannot digeſt and admit, makes it impoſſible to reduce Atheiſts, or to convert Jews and Heathens. But if reaſon invites them in, reaſon can entertain them all the day.

Rom. 12. 1. 1 Pet. 2. 2.

And now to the arguments brought againſt the uſe of reaſon; the anſwers may eaſily be gathered from the premiſes:

56. To the firſt I anſwer, That reaſon is the eye of the ſoul in all things, natural, moral and religious; and faith is the light of that eye, in things pertaining to God; for it is true, that *naturall reaſon* cannot teach us the things of God, that is, reaſon inſtructed onely by this world, which S. *Paul* cals *the natural man*, cannot diſcern the things of the Spirit, for they are *ſpiritually diſcerned*: that is, that they are taught and perceived by the aids of Gods Spirit, by revelation

lation and divine aſſiſtances and grace: but though *natural reaſon* cannot, yet it is falſe to ſay that *reaſon cannot*; for *reaſon illuminated* can *perceive the things of God*; that is, when reaſon is taught in that faculty, under that Maſter, and by thoſe rules which are proper for ſpiritual things, then reaſon can doe all its intentions.

57. To the ſecond I anſwer, that therefore humility and piety are the beſt diſpoſitions, to the underſtanding the ſecrets of the Goſpel:

1. Becauſe theſe doe remove thoſe prejudices and obſtructions which are bars and fetters to reaſon; and the humble man does beſt underſtand, becauſe the proud man will not inquire, or he will not labour, or he will not underſtand any propoſition that makes it neceſſary for him to lay aſide his imployment or his vanity, his intereſt or his vice.

2. Theſe are indeed excellent diſpoſitions to underſtanding, the beſt *moral inſtruments*, but not the *beſt natural*: If you are to diſpute againſt a Heathen, a good reaſon will ſooner convince him then an humble thought; If you be to convert a few, an argument from the old Prophets is better to him then three or four acts of a gracious comportment.

3. Sometimes by way of bleſſing and reward. God gives underſtanding to good perſons, which to the evil he denies, but this which effects any thing by way of Divine bleſſing, is not to be ſuppoſed the beſt natural inſtrument. Thus the Divines ſay that the fire of hell ſhall torment ſouls, *tanquam inſtrumentum Divinæ voluntatis*, as the inſtrument in the hand of a voluntary, and almighty agent, but not as a thing apportioned properly to ſuch an event, for the worm of conſcience is more apt to that purpoſe.

4. And when we compare *man with man*, ſo it is true that the pious man ſhould be ſooner inſtructed then the impious, *cæteris paribus*, but if we compare *diſcourſe* and *piety*, *reaſon* & *humility*, they excel each other in their ſeveral kinds, as wooll is better then a diamond, and yet a diamond is to be preferred before a bag of wool; they operate to the ſame purpoſe of underſtanding in ſeveral manners: And whereas it is ſaid in the argument, that *the doctrine of the Croſs was fooliſhneſs to the Greeks*, it is true, but nothing to the preſent queſtion. For therefore it was fooliſhneſs to them, becauſe they had not been taught in the ſecrets of God, they were not inſtructed how God would by a way ſo contrary to fleſh and bloud, cauſe the ſpirits of juſt men to be made perfect. And they who were wiſe by *Plato*'s Philoſophy, and onely well skill'd in *Ariſtotle*, could doe nothing in the Schools of *Jeſus*, becauſe they were not inſtructed in thoſe truths by which ſuch proceedings were to be meaſured; but ſtill, reaſon is the great wheel, though according as the motion was intended, new weights muſt be proportioned accordingly.

58. The third objection preſſes upon the point of duty, and becauſe the Scripture requires obedience of underſtanding, and ſubmitting our moſt imperious faculties, therefore reaſon is to be excluded: To this I anſwer, that we muſt ſubmit our underſtanding to God, is very true, but that is onely when God ſpeaks. But becauſe we heard him not, and are onely told that God did ſpeak, our reaſon muſt examine whether it be fit to beleeve them that tell us ſo; for ſome men have ſpoken falſly, and we have great reaſon to beleeve God, when all the reaſon in the world commands us to ſuſpect the offerings of ſome men: and although we ought for the greateſt reaſons ſubmit to God, yet we muſt judge and diſcern the ſayings of God, from the pretences of men; and how that can be done without uſing our reaſon in the inquiries of Religion,

gion is not yet discovered, but for the obedience of understanding, it consists in these particulars.

The particulars in which obedience of Understanding consists.

59. 1. That we submit to God onely and not to man; that is, to God where ever it appears reasonable to be beleeved that he hath spoken, but never to man unless he hath authority from reason or religion to command our conformity.

60. 2. That those things which by the abuse and pretence of reason are passed into a fictitious and usurped authority, make no part of our Religion; for because we are commanded to submit our understanding to God, therefore we must *call no man Master upon earth*; therefore it is certain that we must not beleeve the reports or opinions of men against a revelation of God. He that communicates with holy bread onely, and gives not the chalice to all Gods people that require the holy Communion, does openly adhere to a fond custome and authority of abused men, and leaves the expres, cleareſt, undeniable institution of God.

61. 3. When reason and revelation seem to disagree, let us so order our selves that so long as we beleeve this to be a revelation, no pretence of reason may change our beleef from it: if right or sufficient reason can perswade us that this is not a revelation, well and good; but if reason leaves us in the actual perswasion that it is so, we must force our reason to comply with this, since no reason does force us to quit this wholly; and if we cannot quit our reason or satisfie it, let us carry our selves with modesty, and confess the revelation, though with profession of our ignorance and unskilfulness to reconcile the two litigants.

62. 4. That whatsoever is clearly and plainly told us, we obey it, and rest in it, and not measure it by the rules of folly and weak Philosophy, or the sayings of men in which error may be ingredient; but when things are unequal, that is, when we can doubt concerning our reason, and cannot doubt concerning the revelation, we make no question but preferre *this* before *that*.

63. 5. That in particular inquiries, we so order our selves as to make this the general measure, that we never doe violence to the word of God, or suspect that, but resolve rather to call our selves liars, then that Religion should receive detriment; and rather quit our arguments then hazard an article; that is, that *when all things are equal*, we rather preferre the pretence of revelation, then the pretences of reason, for the reverence of *that* and the suspicion of *this*. Beyond this we can doe no more.

64. To the fourth I answer, that it is true, reason is fallible, or rather to speak properly, *ratiocination*, or the using of reason is subject to abuse and deception; for reason it self is not fallible: but if reason, that is, reasonings be fallible, so are the pretences of revelation subject to abuse; and what are we now the nearer? Some reasons are but probable, and some are certain and confessed, and so it is in the sense of Scriptures, some are plain and need no interpreter, no discourse, no art, no reasonings to draw out their sense; but many are intricate and obscure, secret and mysterious; and to use a fallible reasoning to draw out an obscure and uncertain sense of Scripture, is sometimes

times the beſt way we have, and then we muſt make the beſt of it we can: but the uſe of reaſoning is not onely to finde out truth the beſt we can, but ſometimes we are as ſure of it; as of light; but then and always our reaſon (ſuch as it is) muſt lead us into ſuch proportions of faith as they can: according as our reaſon or motives are, ſo ordinary is the degree of our faith.

65. To the fifth I need give no other anſwer but this, that it confeſſes the main queſtion: For if this be the greateſt reaſon in the world, *God hath ſaid it, therefore it is true*, it follows, that all our faith relies upon this one reaſon; but becauſe this reaſon is of no uſe to us till the minor propoſition be proved, and that it appear that God hath ſaid it, and that in the inquiry after that, we are to uſe all our reaſon; the conſequent is, that in the firſt and laſt, reaſon lends legs to faith, and nothing can be wiſely beleeved, but what can by ſome rational inducement be proved. As for the laſt propoſition in the objection, *This is againſt Scripture, therefore it is abſurd and unreaſonable*, I have already made it appear to be an imprudent and uſeleſs affirmative.

66. The ſixth Objection complains of them that by weak reaſonings loſe their Religion, but this is nothing againſt right reaſoning: For becauſe Mountebanks and old women kill men by vile Phyſick, therefore is it true, that the wiſe diſcourſes of Phyſicians cannot miniſter to health? half-witted people talk againſt God, and make objections againſt Religion, and themſelves have not wit or will enough to anſwer them and they intending to make reaſon to be *the poſitive and affirmative meaſure of Religion*, are wholly miſtaken, and abuſe themſelves and others. 2. We are not to exact every thing in Religion according to our weak reaſonings; but whatſoever is certain in reaſon, Religion cannot contradict that; but what is uncertain, or imperfect, Religion oftentimes does inſtruct and amend it. But there are many myſteries of Religion contrary to reaſon, corrupted with evil manners, and many are contrary to reaſon, corrupted with falſe propoſitions; now theſe men make objections, which upon their own principles they can never anſwer: but that which ſeems impoſſible to vicious perſons is reaſon to good men, and that which children and fools cannot anſwer, amongſt wiſe men hath no difficulty; and *the ignorant, and the unſtable, wreſt ſome Scriptures to their own damnation:* but concerning the new Atheiſts that pretend to wit, it is not their reaſon, but their want of reaſon that makes them ſuch, for if either they had more learning, or did beleeve themſelves to have leſs, they could never be Atheiſts.

67. To the laſt I anſwer, that it is reaſon we ſhould hear reaſon whereever we finde it, if there be no greater evil brought by the teacher then he can bring good; But if an heretick preaches good things, it is not always lawful to hear them, unleſs when we are out of danger of his abuſes alſo. And thus truth from the devil may be heard, if we were out of his danger; but becauſe he tels truth to evil purpoſes, and makes wiſe ſayings to become craft, it is not ſafe to hear him. 2. But beſides this, although it is lawful to beleeve a truth which the devil tels us, yet it is not lawful to goe to School to the devil, or to make inquiries of him, becauſe he that does ſo, makes him his Maſter, and gives ſomething of Gods portion to Gods enemy. As for Judicial Aſtrology and Genethliacal predictions, for my part I therefore reprove them, not becauſe their reaſon is againſt Religion, for certainly it cannot be; but becauſe I think they have not reaſon enough in what they ſay; they goe upon weak principles which they cannot prove; they reduce them to practice by impoſſible me-

diums: they draw concluſions with artleſs and unskilful heads, they argue about things with which they have little converſation, they cannot make ſcientifical progreſs in their profeſſion, but out of greedineſs to doe ſomething; they uſually, at leaſt are juſtly ſuſpected to take in auxiliaries from the ſpirits of Darkneſs; they have always ſpoken uncertainly, and moſt part falſly; and have always lived ſcandalouſly in their profeſſion: they have by all Religions been cried down, truſted by none but fools, and ſuperſtitious people; and therefore although the art may be very lawful, if the ſtarres were upon the earth, or the men were in heaven, if they had skill in what they profeſs, and reaſon in all their pretences, and after all that their principles were certain, and that the ſtarres did really ſignify future events, and that thoſe events were not overruled by every thing in heaven and in earth, by God, and by our own will and wiſdome, yet becauſe here is ſo little reaſon, and leſs certainty, and nothing but confidence and illuſion, therefore it is that Religion permits them not; and it is not the reaſon in this art, that is againſt Religion, but the folly or the knavery of it, and the dangerous and horrid conſequents, which they feel that run a whoring after ſuch Idols of imagination.

RULE 4.

A judgement of nature, or inclination, is not ſufficient to make a ſure Conſcience.

1. BEcauſe this Rule is of good uſe, not onely for making judgement concerning the ſtates of ſome men, but alſo in order to many practices, it will not be loſt labour to conſider, that there are three degrees of practical judgement.

2. The firſt is called an inclination, or the firſt natural conſonancy between the faculty or diſpoſition of man, and ſome certain actions. All men are naturally pitiful in ſome degree, unleſs their nature be lame and imperfect: As we ſay all men naturally can ſee, and it is true, if they have good eyes: ſo all men naturally are pitiful, unleſs they have no bowels: But ſome more, ſome leſs. And therefore there is in their natures a conveniency, or agreeing between their diſpoſitions and acts of charity. In the firſt or loweſt ſort there is *an aptneſs to it*. 2. In the ſweeter and better natures there is *a virtual charity*. 3. But in thoſe that conſider and chooſe, and obſerve the Commandement, or the proportions of right reaſon, there is in theſe onely a *formal, deliberative, compound or practical judgement*.

3. Now concerning the firſt ſort, that is, *the natural diſpoſition* or *firſt propenſity*, it is but a remote diſpoſition towards *a right conſcience* and *a practical judgement*; becauſe it may be reſcinded, or diverted by a thouſand accidents, and is nothing elſe but a relique of the ſhipwrack which *Adam* and all the world have made, and may paſs into nothing as ſuddenly as it came. He that ſees two Cocks fight, though he have no intereſt in either, will aſſiſt one of them at leaſt by an ineffective pity and deſire: but this paſſes no further then to natural effects, or the changes or affections of a load-ſtone; it may produce ſomething in nature, but nothing in manners.

4. Concerning the ſecond, that is, *a virtual judgement*, that is, a natural inclination paſſing forth into habit or cuſtome, and delight in the actions of ſome vertues;

tues; it is certain that it is one part of the grace of God, and a more promoted and immediate diſpoſition to the vertue of its kinde then the former. Some men are naturally very merciful, and ſome are abſtemious, and ſome are continent: and theſe in the courſe of their life take in every argument and accidental motive, and the diſpoſition ſwells, and the nature is confirm'd. But ſtill it is but nature. The man, it may be, is chaſt, becauſe he hates the immodeſty of thoſe addreſſes which prepare to uncleanneſs; or he loves his quiet, or fears the accidents of his Enemy-crime; or there was a terror infus'd into him by the ſight of a ſad ſpectacle, the evil reward of an adulterous perſon.

——*quoſdam mœchos dum Mugilis intrat.*

Concerning this kinde of virtual judgement, or confirm'd nature, I have two things to ſay:

5. 1. That this virtual judgement can produce love or hatred to certain objects, ineffective complacencies or diſreliſhes reſpectively, proper antipathies and averſations from a whole kinde of objects; ſuch as was that hatred that *Tamerlan* had to *Zercon*, or ſome men to Cats. And thus much we cannot deny to be produc'd by the operation and ſimple apprehenſion of our ſenſes by pictures and all impreſſions of fancy: *Cum opinamur difficile aliquid aut terribile ſtatim compatimur. Secundùm imaginem autem ſimiliter nos habemus.* We finde effects and impreſſes according to the very images of things we ſee, and by their prime apprehenſions; and therefore much rather may theſe *actus imperati*, or more natural and proper effects and affections of will be entertain'd or produc'd reſpectively. Men at firſt ſight fall in love with women, and that againſt their reaſon and reſolution, and counſel, and intereſt, and they cannot help it; and ſo they may doe with ſome actions of virtue. And as in the firſt caſe they are rather *miſerable* then *vicious*; ſo in this they are rather *fortunate* then *vertuous*: and they may be commended as we praiſe a fair face, or a ſtrong arm, an athletick health, or a good conſtitution; and it is indeed a very good diſpoſition and a facilitation of a vertuous choice. But,

Vide Ariſtot. de anima lib. 3. text. 154.

6. 2. This *virtual judgement*, which is nothing but *nature confirm'd* by accidents, is not a ſtate of good by which a man is acceptable to God. Neither is it a ſufficient principle of *a good life*, nor indeed of *the actions of its own kinde*. 1. Not of good life, becauſe it may be in a ſingle inſtance; and it can never be in all. The man that is *good natur'd*, that is, *naturally meek*, and *loving*, goes the furtheſt upon this account; but without the conjunction of other vertues, it is a great way off from that good ſtate whither naturally it can but tend and incline: and we ſee ſome good things are made to ſerve ſome evil; and by temperance, and a moderate diet, ſome preſerve their health, that they may not preſerve their chaſtity: and they may be habitually proud, becauſe they are naturally chaſt: and then this chaſtity is no virtue, but a diſpoſition and an aptneſs onely. In this ſenſe that of S. *James* may be affirmed, *He that offends in one, is guilty of all*; that is, if his inclinations, and his accidentally acquir'd habits be ſuch as to admit a mixture, they are not genuine and gracious: ſuch are theſe that are the effects of a nature fitted towards a particular virtue. It muſt be a higher principle that makes an intire piety; nature and the habits growing upon her ſtock, cannot doe it. *Alexander* was a continent Prince, and the captive beauties of *Perſia* were ſecur'd by it in their Honours; but by rage he deſtroyed his friend, and by drunkenneſs he deſtroyed himſelf.

2. But neither is this virtual judgement a ſufficient principle of the actions

of its own kinde; for this natural ſtrength is nothing but an uneaſineſs and unaptneſs to ſuffer by common temptations; but place the man where he can be tempted, and this good diſpoſition ſecures him not, becauſe there may be ſomething in nature bigger then it.

7. It remains then, that to the conſtitution of a Right and Sure Conſcience, there is requir'd *a formal judgement*, that is, a deliberation of the underſtanding, and a choice of the will, *that* being inſtructed, and *this* inclined by *the grace of God: tantóque laudabilior munificentia noſtra fore videbatur, quòd ad illam non impetu quodam ſed conſilio trahebamur*, ſaid *Secundus*: then it is right and good, then when it is not violent, neceſſary, or natural, but when it is choſen. This makes *a Right and Sure Conſcience*, becauſe the grace of God hath an univerſal influence into all the courſe of our actions. *For he that ſaid, Doe not kill, ſaid alſo, Doe not ſteal*: and if he obeys in one inſtance, for that reaſon muſt obey in all, or be condemn'd by himſelf, and then the Conſcience is right in the principle and fountain, though defil'd in the iſſue and emanation. For he that is condemn'd by his own *Conſcience*, hath the law written and the characters ſtill fair, legible, and read; but then the fault is in ſomething elſe; *the will* is corrupted. The ſumme is this:

Lib. 1. cp. 8.

8. It is not enough that the Conſcience be taught by *nature*, but it muſt be taught by *God*, conducted by *reaſon*, made operative by *diſcourſe*, aſſiſted by *choice*, inſtructed by *laws* and *ſober principles*: and then it is *Right*, and it may be *Sure*.

Rule 5.

When two motives concurre to the determination of an action, whereof one is vertuous, and the other ſecular, a Right Conſcience is not prejudic'd by that mixture.

1. He that faſts to puniſh himſelf for his ſins, and at the ſame time intends his health, though it will be very often impoſſible for him to tell himſelf which was the final and prevailing motive and ingredient into the perſwaſion, yet it is no detriment to his conſcience; the religious motive alone did ſuffice to make it to be an act of a good conſcience; and if the mixture of the other could change this, it could not be lawful to uſe, or in any degree to be perſwaded by the promiſes of thoſe temporal bleſſings which are recorded in both Teſtaments, and to which there is a natural deſire, and proper inclination. But this alſo is with ſome difference.

2. 2. If the ſecular ingredient be the ſtronger, it is in the ſame degree as it prevails over the vertuous or religious, *a diminution* of the worthineſs of the action; but if it be a ſecular bleſſing under a promiſe, it does not alter *the whole kinde of the action*. The reaſon is this: Becauſe whatever God hath promiſed, is therefore deſirable and good, becauſe he hath promiſed it, or he hath promiſed it becauſe it is of it ſelf good, and uſeful to us; and therefore whatever we may innocently deſire, we may innocently intend: but if it be mingled

mingled with a religious and ſpiritual intereſt, it ought not to ſit down in the higheſt place, becauſe a more worthy is there preſent, leſt we be found to be paſſionate for the things of this life, and indifferent for God and for Religion.

3. 3. If the ſecular or temporal ingredient be not under a promiſe, and yet be the prime and chief motive, the whole caſe is altered: the conſcience is not right, it is natural inclination, *not conſcience*, it is ſenſe or intereſt, *not duty*. * He that gives alms with a purpoſe to pleaſe his Prince, who is charitable and religious, although his purpoſe be innocent, yet becauſe it is an end which God hath not encouraged by propounding it as a reward of charity, the whole deliberation is turn'd to be a ſecular action, and paſſes without a reward. Our *bleſſed Saviour* hath by an inſtance of his own, determin'd this caſe. *When thou makeſt a feaſt call not the rich*, who can make thee recompence, but *call the poor, and thou ſhalt have reward in heaven*. To call the rich to a feaſt is no ſin, but to call them is to loſe the reward of charity, by changing the whole nature of the action from *charity* to *civility*, from *Religion* to *prudence*.

4. And this hath no other exception or variety in it, but when the mixture is of a thing that is ſo purely *natural*, that it is alſo *neceſſary*: Thus to eat upon a feſtival day to ſatisfy a long hunger, to be honeſtly imployed to get a living, doe not ceaſe to be religious, though that which is temporal be the firſt and the greateſt cauſe of the action or undertaking. But the reaſon of this difference (if any be apprehended) is becauſe this natural end *is alſo a duty*, and tacitly under a promiſe.

Queſt.

5. IT is uſually requir'd, that all that enter into the holy Offices of the Miniſtery ſhould ſo primely and principally deſign the glory of God, that all other conſiderations ſhould ſcarce be ingredients into the reſolution, and yet if it be inquired how far this is obligatory, and obſerve how little it is attended to in the firſt preparations to the Order, the very needs of moſt men will make the Queſtion material.

6. But I anſwer to the Queſtion, in proportion to the ſenſe of the preſent Rule.

1. Where ever a religious act by Gods appointment may ſerve a temporal end and a ſpiritual, to attend either is lawful; but it is ſtill more excellent, by how much preference and greater zeal, we more ſerve the more excellent. Therefore although it be better to undertake the ſacred function wholly for ends ſpiritual, yet it is lawful to enter into it with *an actual deſign* to make that calling the means of our natural and neceſſary ſupport. The reaſon is:

7. Becauſe it is lawfull to intend what God hath offered and propounded. The end which God hath made, cannot be evil, and therefore it cannot be evil to chooſe that inſtrument to that end, which by Gods appointment is to miniſter to that end. Now ſince *God hath ordained that they who preach the Goſpel ſhould live of the Goſpel*, it cannot be unlawful to deſign *that* in order to *this*.

8. 2. If our temporal ſupport and maintenance be the *firſt* and *immediate* deſign, it makes not the whole undertaking to be unlawful. For all callings, and all ſtates, and all actions, are to be directed or done to the glory of God; according to that ſaying of S. *Paul*, *Whether ye eat or drink, or whatſoever ye doe,*

doe all to the glory of God: and that one calling ſhould be more for Gods glory then another, is by reaſon of the matter and imployment; but in every one, for its portion ſtill, Gods glory muſt be the principal, and yet no man queſtions but it is lawful for any man to bring his ſon up to the moſt gainful trade, if in other things there be no objection: and therefore why this may not be the firſt moving conſideration in the ſuſception of, or deſignation to the calling Eccleſiaſtical, cannot have any reaſon in the nature of the thing: For if in all things Gods glory muſt be the principal end, and yet in ſome Callings the temporal advantage is the firſt mover, then it may be ſo in all; the intention of Gods glory notwithſtanding: for if it hinders not in *that*, it hinders not in *this*. But yet,

9. 3. It is a great imperfection actually to think of nothing but the temporal advantages, of which God hath in that Calling made proviſions; but I ſay, it is not always a ſin to make them the *firſt mover* in the deſigning the perſon to that Calling.

10. But therefore this is onely tolerable in thoſe perſons, who at great diſtance deſign the Calling; as when they firſt ſtudy to make themſelves capable of it, then it is tolerable, becauſe they are bound to provide for themſelves in all juſt ways, and ſtanding at ſo great diſtances from it, cannot behold the beauties which are *in interiori domo*; the duty which is on them, is to doe that which is their proper work, that is, to fit themſelves with abilities and skill to conduct it, and therefore their intention muſt be fitted accordingly, and move by the moſt powerful and prevailing motive, ſo it be lawful. He that applies himſelf to learn letters, hath an intention proportionable to his perſon and capacity when he firſt enters, and as he grows in powers, ſo muſt he alſo in purpoſes; ſo that as he paſſes on to perfection, he may alſo have intentions more noble and more perfect: and a man in any Calling may firſt deſign to ſerve that end that ſtands next him, and yet when he is poſſeſt of that, look on further to the intention of the thing, and its own utmoſt capacity. But therefore,

11. 4. Whoſoever does actually enter into Orders, muſt take care that his *principal* end be the glory of God, and the good of ſouls. The reaſons are theſe:

12. 1. Becauſe no man is fit for that Office, but he that is ſpiritual in his perſon, as well as his Office: he muſt be a deſpiſer of the world, a light to others, an example to the flock, a great denier of himſelf, of a celeſtial minde, he muſt minde heavenly things; with which diſpoſitions it cannot conſiſt, that he who is called to the lot of God, ſhould place his chief affections in ſecular advantages.

13. 2. This is that of which the Apoſtle was a glorious precedent, *We ſeek not yours, but you; for the Parents lay up for the children, not children for their Parents:* meaning, that between the ſpiritual and the natural paternity, there is ſo much proportion, that when it is for the good of the children, they muſt all quit their temporal advantages; but becauſe this is to be done for the ſpiritual, it follows, this muſt be chief.

2 Cor. 12. 14.

14. And this I ſuppoſe is alſo enjoyned by another Apoſtle, *Feeding the flock of God, not for filthy lucre ſake,* ἀπὸ προθύμως, that is, but *of a prompt, ready minde*; a minde moved by intrinſick arguments of fair deſign, not drawn by the outward cords of vanity and gain.

1 Pet. 5. 2.

3. The

15. 3. The work of the Calling being principally and immediately for the good of ſouls, and for the glory of God, it cannot be purſued as the nature of the work requires, if that be not principally intended, which is principally to be procured; All that which is neceſſary in order to it muſt alſo be taken care of: Thus the Miniſters of Religion may attend their health, and muſt look to their neceſſary ſupport, and may defend themſelves againſt all impediments of their offices in juſt and proportionable ways: but becauſe all theſe have further purpoſes, although they ſtanding neareſt may be firſt regarded by an *actual care*, at *ſome times*, and *in ſome circumſtances*, and *by actual attention*; yet *habitually*, and *principally*, and *conſtantly*, the glory of God, and the good of ſouls muſt be in the heart, and in the purpoſe of every action.

16. But the principality and preheminence of this intention is no otherwiſe to be judged of, either by our ſelves or others, then by theſe following ſignifications.

17. 1. No man can in any ſenſe principally, that is, as he ought, intend the good of ſouls, who enters into the ſacred Miniſtery wihout thoſe juſt meaſures of preparation and diſpoſition, which are required by the Church, and the nature of the thing it ſelf; that is, that he be well inſtructed in the holy Scriptures, and be fit to teach, to exhort, to reprove. For he who undertakes a work which can ſerve Gods end and his own in ſeveral capacities, and is not ſufficiently inſtructed to ſerve the ends of God, it is apparent that what he undertakes is for his own end.

2. His intentions cannot be right, who by any indirect arts does enter, for that which does not begin at God, cannot be for God: *Non enim ambitione, vel pretio, ſed probatæ vitæ & diſciplinarum teſtimonio, ad honoris & Sacerdotii inſignia oportet promoveri*, ſaid the Emperour *Theodoſius*. He therefore who ſymoniacally enters, fixes his eye and heart upon that which he values to be worth money, not upon the ſpiritual imployment, between which and money there can be no more proportion, then between contemplation and a cartrope; they are not things of the ſame nature; and he that comes into the field with an Elephant, cannot be ſuppoſed to intend to hunt a hare: neither can he be ſuppoſed to intend principally the miniſtery of ſouls, who comes to that office inſtructed onely with a bag of money.

18. 3. He may be ſuppoſed principally to intend the Miniſtery of ſouls, and in it the glory of God, who ſo attends to the execution of his office, that it doe really and ſufficiently miniſter to the thing. For ſince the Calling is by God really deſigned to that end, and if the Miniſters be not wanting to themſelves, they are ſufficiently enabled and aſſiſted to that purpoſe; he that zealouſly and wiſely miniſters in the office, hath given a moſt real teſtimony of his fair intention, becauſe he does that thing *ſo* as thoſe intentions onely can be effected. The thing it ſelf is ſufficient for the end if God bleſſes it; he therefore that does the thing, does actuate the intention of God, and ſanctifies his own: But this is to be underſtood with the addition of the following caution.

19. 4. He may be confident that his intentions for Gods glory and the good of ſouls are right and principal, who ſo conjoyns his other leſſer ends with the conduct of the greater, that they ſhall always be made to give place to the greater. That is, who ſtill purſues the intereſt of ſouls, and the work of his Miniſtery, when the hopes of maintenance, or honour, or ſecular regards doe fail,

tal. For he that for carnal or ſecular regards will either quit or neglect his Miniſtery, it is certain, his carnal or ſecular ends were his chief motive and incentive in the work. It was the caſe of *Demas* who was S. *Pauls* Miniſter and work-fellow in the ſervice of the Goſpel, but he left him, becauſe *he loved the preſent world*; concerning which, it is to be conſidered, that this lapſe and receſſion of *Demas* from the aſſiſtances of S. *Paul*, did not proceed from that love of the world which S. *John* ſpeaks of, and is criminal, and forbidden to all Chriſtians, which *whoſoever hath, the love of the Father dwels not in him*, but is to be underſtood of ſuch a love, which to other Chriſtians is not unlawful, but was (in thoſe times eſpecially) inconſiſtent with the duty of Evangeliſts, in thoſe great neceſſities of the Church: *Demas* was a good man, but weak in his ſpirit, and too ſecular in his relations, but he returned to his ſtation, and did the work of an Evangeliſt, a while after, as appears in the Epiſtle to the *Coloſsians* and *Philemon*; but for the preſent he was too blame. For he would ſecure his relations and his intereſts with too great a caution and diligence, and leave the other, to attend this. Such as now adays is too great care of our eſtates, ſecular negotiations, merchandizes, civil imployments, not miniſtring directly unto Religion, and the advantages of its miniſtration. For our great King the Lord Jeſus, hath given to all Chriſtians ſome imployment, but to ſome more, to ſome leſs, and in their own proportion they muſt give a return: and in a Miniſter of the Goſpel, every inordination of carefulneſs, and every exceſs of attendance to ſecular affairs, and every unneceſſary avocation from, or neglect of his great work is criminal, and many things are exceſſes in them, which are not in others, becauſe the Miniſterial office requires more attendance and converſation with ſpiritual things, then that of others.

20. 5. If ever the Miniſter of holy things, for hope or fear, for gain or intereſt deſert his ſtation, when he is perſecuted, or when he is not perſecuted, it is too much to be preſumed, that he did not begin for God, who for man will quit Gods ſervice. They that wander till they finde a rich ſeat, doe all that they doe for the riches of the place, not for the employment: *Si non ubi ſedeas locus eſt, eſt ubi ambules*, ſaid he in the Comedy; the calling of theſe men is not fixed but ambulatory: and if that which fixes them be temporal advantages, then that which moved them principally is not ſpiritual employment.

21. For it is conſiderable, that if it be unlawful to undertake the holy Calling, without a Divine vocation to it, then to forſake it without a Divine permiſſion muſt be criminal. He that calls to come, calls to continue, where the need is laſting, and the office perpetual. But to leave the Calling when the revenue is gone, to quit the Altar when it hath no offering, to let the ſouls wander, when they bring no gifts, is to deſpiſe the Religion, and to love onely the fat of the ſacrifices: For the Altar indeed does ſanctify the gift, but not the gift the Altar; and he hath but a light opinion of an eternal Crown of glory, or thinks God but an ill paymaſter, that will not doe him ſervice upon the ſtock of his promiſes, and will not feed the flock, though he have no other reward but to be feaſted in the eternal Supper of the Lamb: Who are hirelings, but they who fly when the Wolf comes? and woe be to that Evangeliſt who upon any ſecular regard neglects to preach the Goſpel; woe be to him, to whom it ſhall be ſaid at the day of Judgement, *I was hungry, and my flock was hungry*, and *ye fed neither it nor me*.

But this is to be underſtood with theſe liberties:

22. 1. That it be no prejudice to thoſe Eccleſiaſticks, who in time of Perſecu-

tion,

tion, doe ſo attend to their Miniſteries, that no material part of it be omitted, or ſlightly performed, and yet take from it ſuch portions of time as are neceſſary for their labour, or ſupport by any juſt and honeſt imployment. Thus S. *Paul* wrought in the Trade of a Tent-maker, becauſe he would not be a burthen to the Church of *Corinth*; and when the Church is ſtripp'd naked of her robes, and the bread of propoſition are ſtollen from her table by Souldiers, there is no peradventure but the Eccleſiaſtical offices are ſo to be attended to, that the natural duty and neceſſity be not neglected.

23. 2. That it be no prejudice to Eccleſiaſticks in the days of peace or war, to change their ſtation from Biſhoprick to Biſhoprick, from Church to Church, where God, or the Church, where Charity or Neceſſity, where Prudence or Obedience calls. Indeed it hath been fiercely taught, that Eccleſiaſticks ought never, and upon no pretence to deſert their Church, and goe to another any more then a man may forſake his wife; and for this a Decretal of *P. Euariſtus* is pretended, and is recorded in the Canon Law. *c. Sicut vir. Can.7.q.1. Sicut vir non debet adulterare uxorem ſuam, ita nec Epiſcopus Eccleſiam ſuam, ut illam dimittat ad quam fuit ſacratus*: and therefore when *Euſebius* the Biſhop of *Cæſarea* was called to be Biſhop of *Antioch*, he refuſed it pertinaciouſly, and for it was highly commended by the Emperour; and S. *Hierome* in his Epiſtle to *Oceanus* tels, *In Nicænâ Synodo à Patribus decretum eſt, nè de alia in aliam Eccleſiam Epiſcopus transferatur, nè virginalis pauperculæ ſocietate contemptâ ditioris adulteræ quærat amplexus.* Something indeed like it was decreed by the fifteenth and ſixteenth Canons of the Nicene Councel; and it was an uſual puniſhment amongſt the holy Primitives, *Careat Cathedrâ propriâ qui ambit alienam.* But theſe things though they be true and right, yet are not a contradictory to the preſent caſe. For,

24. 1. *Euariſtus* (it is clear) forbad tranſlations and removes from Church to Church, *ambitus cauſâ*, for ambition or covetouſneſs, and therefore it is by him expreſly permitted in their proper caſes and limits; that is, [*in inevitabili neceſſitate, aut Apoſtolicâ, vel regulari mutatione*] when there is inevitable neceſſity, or the command and authority of a ſuperiour power: and yet upon peruſal of the Decree I finde, that *Euariſtus* his intent was, that a Biſhop ſhould not thruſt his Church from him by way of divorce, and excommunication, and take another, as appears not onely by the correſponding part of the Decree, *viz. That neither muſt the Church take in another Biſhop or Husband upon him to whom already ſhe is eſpouſed*; but by the expreſſion uſed in the beginning of it, *dimittere Eccleſiam Epiſcopus non debet*; and it is compared to the adultery of a man that puts away his wife, and marries another; and alſo it appears more yet by the gloſs, which ſeems to render the ſame ſenſe of it, and wholly diſcourſes of the unlawfulneſs to excommunicate a Church or a City, leſt the innocent ſhould ſuffer with the criminal: for when a Church is excommunicated, though all thoſe perſons die upon whom the ſentence fell, yet the Church is the ſame under other perſons their ſucceſſors, and therefore all the way it does injuſtice, by involving the new ariſing innocents, and at laſt is wholly unjuſt by including all and onely innocent perſons. But which way ſoever this Decree be underſtood, it comes not home to a prohibition of our caſe.

25. 2. As for *Euſebius*, it is a clear caſe he impoſed upon the good Emperour, who knew not the ſecret cauſe of *Euſebius* his denial to remove from *Cæſarea* to *Antioch*. For he having engaged the Emperour before time to write in his behalf,

behalf, that he might be permitted to enjoy that Bishoprick, was not willing to seem guilty of levity and easiness of change. But that was not all, he was a secret favourer of the *Arrians*, and therefore was unwilling to goe to that Church where his predecessor *Eustathius* had been famous for opposing that pest.

2. To that of S. *Ferome* out of the Nicene Council, I answer, That the prohibition is onely of such, as *without authority, upon their own head, for their own evil purposes*, and *with injury to their own Churches* did it: and of covetousness it is, that S. *Ferome* notes and reproves the practice: To despise our charge because it is poor, is to love the money more then the souls, and therefore this is not to be done by any one of his own choice; but if it be done by the command or election of our Superiour, it is to be presumed it is for the advantage of the Church in matter of direct reason, or collateral assistances, and therefore hath in it no cause of reproof.

26. And to this purpose the whole affair is very excellently stated by the 14. Canon of the Apostles; *A bishop must not leave his own Parish or Diocess, and invade that of another man, nisi forte quis cum rationabili causa compellatur, tanquam qui possit, ibidem constitutus plus lucri conferre, & in causa religionis aliquid profectus prospicere.* If there be a reasonable cause he may; and the cause is reasonable, if by going he may doe more good, or advantage to Religion: but of this he is not to be Judge himself, but must be judged by his Superiours; *& hoc non a semetipso pertentet, sed multorum Episcoporum judicio, & maxima supplicatione perficiat*; he must not doe it on his own head, but by the sentence and desire of the Bishops.

27. There needs no more to be added to this, but that if a greater revenue be annexed to another charge, and that it be *in rem Ecclesiæ*, that the more worthy person should be advanced thither, to enable his better ministeries by those secular assistances which our infirmity needs, there is nothing to be said against it, but that if he be the man he is taken for, he knows how to use those advantages to Gods glory, and the good of souls, and the services of the Church; and if he does so, his intentions are to be presumed pure and holy, because the good of souls is the principal.

28. Upon the supposition of these causes, we finde that the practice of the ancient Bishops and Clerks in their translations was approved. *Origen* did first serve God in the Church of *Alexandria*, afterwards he went to *Cæsarea*, to *Antioch*, to *Tyre*, and S. *Gregory Nazianzen* changed his Episcopal See eight times. Nay the Apostles themselves did so: S. *Peter* was first Bishop of *Antioch*, afterwards of *Rome*: and the necessity and utility of the Churches called S. *Paul* to an ambulatory Government and Episcopacy, though at last he also was fixed at *Rome*, and he removed *Timothy* and *Titus* from Church to Church as the need and uses of the Church required. But in this, our call must be from God, or from our Superiours, not from levity or pride, covetousness, or negligence. Concerning which, who please further to be satisfied, may read S. *Athanasius* his Epistle to *Dracontius*, of old; and of late, *Chytræus in Epistolis p* 150. *&* 678. and *Conradus Porta* in his *Formalia*. This onely; If every man were indispensably tied to abide where he is first called to minister, then it were not lawful for an inferiour Minister to desire the good work of a Bishop; which because it is not to be administred in the same place or charge, according to the universal discipline of the Church for very many

many ages, muſt ſuppoſe that there can be a reaſonable cauſe to change our charges, becauſe the Apoſtle commends that deſire which ſuppoſes that change.

29. Theſe being the limits and meaſures of the Rule, it would be very good if we were able to diſcern concerning the ſecrets of our intentions, and the cauſes of actions. It is true, that becauſe men confound their actions and deliberations, it will be impoſſible to tell in many caſes what motive is the principal ingredient. *Sed ut tunc communibus magis commodis quam privatæ jactantiæ ſtudebamus, quum intentionem, effectúmque muneris noſtri vellemus intelligi; ita nunc in ratione edendi, veremur nè fortè non aliorum utilitatibus, ſed propriæ laudi ſerviſſe videamur.* It is hard for a wiſe and a gallant man, who does publick actions of greateſt worthineſs deſerving honour, to tell certainly whether he is more pleaſed in the honours that men doe him, or in the knowledge that he hath done them benefits. But yet in very many caſes, we may at leaſt gueſs probably which is the prevailing ingredient, by theſe following meaſures; beſides thoſe which I have noted and applied to the ſpecial caſe of undertaking the calling Eccleſiaſtical. Plin. li. 2. ep. 3. *Vide* Rule of Holy Living. Chap. 1. §. 2.

Signes of difference, whereby we may in a mixt and complicated intention, diſcern which is the principal ingredient.

30. 1. Whatſoever came in after the determination was made, though it adde much the greater confidence, and makes the reſolution ſharper and more active, yet it is not to be reckoned as the prevailing ingredient; for though it adde degrees, yet the whoſe determination was perfected before. The widow *Fulvia* was oppreſſed by *Attilius*; ſhe complains to *Secundus* the Lawyer. He conſiders whether he ſhould be Advocate for his friend *Attilius*, or for the oppreſſed *Fulvia*; and at laſt determines on the ſide of piety and charity, and reſolves to releeve the Widow, but with ſome abatement of his ſpirit and confidence, becauſe it is againſt his friend: but Charity prevails. As he goes to Court he meets with *Caninius*, who glorioufly commends the advocation, and by ſuperadding that ſpurre made his diffidence and imperfect reſolution, confident and clear. In this caſe the whole action is to be attributed to *Piety*, not to the love of *Fame*; for *this* onely added ſome moments, but *that* made the determination.

31. 2. When the determination is almoſt made, and wants ſome weight to finiſh it, whatſoever then ſupervenes and caſts the ſcales, is not to be accounted the prevailing ingredient, but that which made moſt in the ſuſpenſion and time of deliberation, and brought it forward. It is like buying and ſelling: not the laſt *Maravidis* that was ſtood upon was the greateſt argument of parting with the goods; but that farthing added to the bigger ſumme, made it bigge enough: and a childs finger may thruſt a load forward, which being haled by mighty men ſtands ſtill for want of a little aſſiſtance.

32. 3. That is the prevailing ingredient in the determination which is moſt valued, not which moſt pleaſes; that which is rationally preferred, not that which delights the ſenſes. If the man had rather loſe the ſenſual then the intellectual good, though in that his fancy is more delighted, yet this is the ſtronger, and greater in the Divine acceptance, though poſſibly in nature it be leſs active, becauſe leſs pleaſing to thoſe faculties, which whether we will or no, will be very much concerned in all the entercourſes of this life. * He that keeps

keeps a feſtival in gratitude and ſpiritual joy to doe God glory, and to give him thanks, and in the preparation to the action is hugely pleas'd by conſidering the muſick, the company, the feſtivity and innocent refreſhments, and in his fancy, leaps at *this*, but his reſolution walks on by *that*, hath not ſpoil'd the regularity of his Conſcience by the intertexture of the ſenſual with the ſpiritual, ſo long as it remains innocent. For though this flames brighteſt, yet the other burns hotteſt, and will laſt longer then the other. But of this there is no other ſign, but that *firſt* we be infinitely careful to preſcribe meaſures and limits to the ſecular joy, that it may be perfectly *ſubordinate to*, and *complying with* the ſpiritual and religious: and ſecondly, if we are willing to ſuppreſs the light flame, rather then extinguiſh the ſolid fire.

33. 4. Then the holy and pious ingredient is overpowred by the mixture of the ſecular, when an inſtrument toward the end is choſen more proportionable to *this*, then to *that*. *Cæcilius* to doe a real not a phantaſtick benefit to his Tenants, erected a Library in his *Villa*, and promiſed a yearly revenue for their childrens education, and nobler inſtitution: And thus farre judgement ought to be made, that he intended piety rather then fame; for to his fame, Plays and Spectacles would (as the *Roman* humour then was) have ſerved better: but when in the acting his reſolution he prais'd that his pious purpoſe, and told them he did it for a pious, not a vainglorious end, however the intention might be right, this publication was not right: But, when he appointed that anniverſary orations ſhould be made in the praiſe of his pious foundation, he a little too openly diſcovered what was the bigger wheel in that motion. For he that ſerves a ſecret piety by a publick Panegyrick, diſorders the piety by diſmantling the ſecret: it may ſtill be piety, but it will be leſſen'd by the publication; though this publication be no otherwiſe criminal, then becauſe it is vain. *Meminimus quanto majore animo honeſtatis fructus in conſcientia quàm in fama reponatur. Sequi enim gloria non appeti debet: nec ſi caſu aliquo non ſequatur, idcirco quod gloriam meruit minus pulchrum eſt: Hi verò qui benefacta ſua verbis adornant, non ideò prædicare quia fecerint, ſed ut prædicarent, feciſſe creduntur*; which is the very thing which I affirm in this particular. If the intermediate or conſequent actions ſerve the collateral or ſecular end, moſt viſibly it is to be ſuppoſed, that this was the greater motive, and had too great an influence into the deliberation.

Plin. li. 1. ep. 8.

34. But becauſe the heart of man is ſo intricate, trifling, and various, in moſt caſes it muſt be ſufficient for us to know, that if the mixture be innocent, the whole deliberation is ſecur'd in the kinde of it, and for degrees we muſt doe as well as we can.

35. But on the other ſide, if the ſecular end mixt with the ſpiritual, and religious, the juſt and the honeſt, be unlawful, and yet intended, though in a leſs degree, though but accidentally and by an after conſent; the conſcience is neither ſure nor right, but is diſhonour'd and defil'd: for the whole deliberation is made criminal by mingling with forbidden purpoſes. He that takes up arms under his Prince in a juſt warre, and at the ſame time intends revenge againſt his private enemy, caſually engag'd on the adverſe party, loſes the reward of his obedience, and changes it for the devilliſh pleaſures of revenge.

Concerning the meaſure and conduct of our intentions, there are ſome other things to be ſaid, but becauſe they are extrinſecal to the chief purpoſe of this Rule, they are properly to be conſidered under their own head.

Rule

RULE 6.

An argument not ſufficient nor competent, though it doe perſwade us to a thing in it ſelf good, is not the ground of a right, nor a ſufficient warrant for a ſure Conſcience.

1. HE that goes to publick Prayers becauſe it is the cuſtome, or communicates at *Eaſter* to avoid a cenſure, hath done an act in it ſelf good, but his motive was neither competent, nor ſufficient to make the action religious, or to manifeſt and declare the Conſcience to be ſure and right: For Conſcience is the repoſitory of practical reaſons: and as in civil actions, we count him a fool who wears clothes onely becauſe they coſt him nothing, or walks becauſe he would ſee his ſhadow move upon the wall: ſo it is in moral. When the reaſon is incompetent, the action is by chance, neither prudent, nor choſen, alterable by a trifle, tending to a cheap end, proceeding by a regardleſs motion: and Conſcience might as well be ſeated in the fancy, or in the foot, as in the underſtanding, if its nature and proper deſign were not to be conducted with reaſons proportionable to ſuch actions which tend to an end perfective of man, and productive of felicity.

2. This Rule is ſo to be underſtood, that it be not requir'd of all men to have reaſons equally good for the ſame determinations, but ſufficient and reaſonable in themſelves, and apt to lead them in their proper capacities and diſpoſitions, that is, reaſons proportionable to that kinde of things in which the determination is inſtanc'd, *viz.* a religious reaſon for an action of Religion; a prudent reaſon for a civil action: but if it be *in its proper kinde*, it is ſufficient if it be probable, provided always, that it makes a ſure minde, and a full perſwaſion.

3. He that beleeves Chriſtian Religion, becauſe the men are charitable and chaſt, and ſo taught to be, and commanded by the Religion, is brought into a good place by a ſingle taper; but he came in by no falſe light, and he is there where he ought to be. He did not ſee the way in ſo brightly as S. *Paul* did, who was conducted in by an Angel from heaven, with a bright flame in his hand; but he made ſhift to ſee his way in: and becauſe the light that guided him came from heaven, his conſcience was rightly inſtructed, and if it perſwaded him heartily, *his conſcience* is as *ſure* as it is *right*.

Queſt.

4. UPon the account and conſequence of this Rule it is proper to inquire, Whether it be lawful, and ingenuous to goe about to perſwade a man to the beleef of a true propoſition, by arguments with which himſelf is not perſwaded, and which he beleeves are not ſufficient? The caſe is this:

5. *Girolami* a learned Prieſt of *Ferrara*, finds that many of his Pariſhioners are infected with Judaiſm, by reaſon of their converſation with the Jewiſh Merchants. He ſtudies the Jewiſh Books to diſcover the weakneſs of their arguments, and to convince them upon their own grounds. But finding his Pariſhioners mov'd onely by popular arguments, and not capable of underſtan-

ding the ſecrets of the old Prophets, the Synchroniſms, nor the computation of *Daniels* weeks, the infinite heaps of reaſons by which Chriſtianity ſtands firm in defiance of all pretenſions to the contrary; ſees it neceſſary to perſwade them by things as eaſy as thoſe are by which they were abus'd. But then he conſiders; If they were by error led into error, it is not fit that by error alſo they ſhould be led out of it into truth: for God needs not to be ſerved with a lie, and evil muſt not be done that good may be thence procured. But if I goe by a falſe argument to cozen them into truth, I tell a lie to recover them from a lie, and it is a diſparagement to the cauſe of God, that it muſt be ſupported by the Devil. But having diſcours'd thus farre, he conſideis further; Every argument which I am able to anſwer, I know cannot conclude in the queſtion; for if it be to be anſwered, it is at moſt but a ſpecious outſide of reaſon; and he that knows this, or beleeves it ſo, either muſt not uſe that inſtrument of perſwaſion, or if he does, he muſt reſolve to abuſe the mans underſtanding before he can ſet it right: and this he beleeves to be againſt the honour of truth, and the rules of charity, and the ſimplicity and ingenuity of the ſpirit of a Chriſtian.

To this Queſtion I anſwer by ſeveral Propoſitions.

6. 1. It is not lawful to tell a lie for God and for truth; becauſe God will not be ſerved by that which he hates, and there are no defects in truth which need ſuch violent remedies. Therefore *Girolami* might not to perſwade his Judaizing Pariſhoners tell them a tale of a Viſion, or pretend a Tradition which is not, or falſify a Record, becauſe theſe are direct arts of the Devil, this is a doing evil for a good end: and every ſingle lie is equally hated by God, and where there is a difference, it is made by complication, or the mixing of ſomething elſe with the lie: and becauſe God hath created and communicated to mankinde, not onely ſufficient but abundant juſtifications of whatſoever he hath commanded us to beleeve, therefore he hates infinitely to have his glorious Oeconomy of faith and truth to be diſordered and diſcompoſed by the productions of hell. For every lie is of the Devil.

7. 2. It is lawful to uſe an argument *cui poteſt ſubeſſe falſum*, ſuch which I know is not certain, but yet I actually beleeve it to be true. That is though the argument be not demonſtrative but probable onely, yet I may ſafely uſe it, if I beleeve my ſelf to be on the right ſide of the probability. For *a real truth*, and *a ſuppoſed truth* are all one as to the innocence of my purpoſes. And he that knows how little certainty there is in humane diſcourſes, and how *we know in part, and propheſie in part*, and that of every thing whereof we know a little, we are ignorant in much more, muſt either be content with ſuch proportions as the things will bear, or as himſelf can get, or elſe he muſt never ſeek to alter or to perſwade any man to be of his opinion. For the greateſt part of diſcourſes that are in the whole world, is nothing but a heap of probable inducements, plauſibilities, and witty entertainments: and the throng of notices is not unlike the accidents of a battel, in which every man tels a new tale, ſomething that he ſaw, mingled with a great many things which he ſaw not, his eyes and his fear joyning together equally in the inſtruction and the illuſion, theſe make up the ſtories. And in the obſervation of things, there is infinitely more variety then in faces, and in the contingencies of the world. Let ten thouſand men read the ſame Books, and they ſhall all make ſeveral uſes, draw ſeveral notes, and underſtand them to ſeveral effects and purpoſes.

Know-

Knowledge is infinite, and out of this infinity every one ſnatches ſome things real, and ſome images of things; and there are ſo many cognoſcitive faculties above and below, and powers miniſtring to knowledge, and all theſe have ſo many ways of being abuſed, or hindred, and of being imperfect; and the degrees of imperfection, poſitive, and privative, and negative, are alſo themſelves abſolutely ſo infinite, that to arrive at probabilities in moſt things is no ſmall progreſſion. But we muſt be content to make uſe of that, both for our ſelves and others.

8. Upon this account we may quote Scriptures to thoſe ſenſes which they can well ſerve in a queſtion, and in which they are us'd by learned men, though we ſuppoſe the principal intention be of a different thing, ſo it be not contrary. For all learned men know that in Scripture many ſayings are full of potential ſignifications, beſides what are on the face of the words, or in the heart of the deſign: and therefore although we may not alledge Scriptures in *a ſenſe contrary* to what we beleeve it meant; yet to any thing *beſides* its firſt meaning, we may, if the analogy will bear it; and if by learned men it be ſo uſed, that is in effect, becauſe for ought we know it may be ſo indeed.

9. 3. If a man *ſuppoſe* his arguments ſufficient and competent to perſwade, though they *be* neither fitting to perſwade, nor at all ſufficient, he may yet lawfully uſe them. For in this caſe though himſelf be deceived, yet becauſe it is upon the ſtrength of thoſe arguments he relies, he can be tied to uſe no better then he hath: And ſince his conſcience is heartily perſwaded, though it be in error, yet that which follows that perſwaſion is innocent (if it be not mingled with deſign) though it may be that which went before was not ſo.

10. 4. In the perſwaſion of a truth, it is lawful to uſe ſuch arguments whoſe ſtrength is wholly made prevailing by the weakneſs of him that is to be perſwaded. Such as are arguments *ad hominem*, that is, proportionable to the doctrines, cuſtomes, uſages, beleef, and credulity of the man. The reaſons are theſe:

1. Becauſe ignorant perſons are not capable of ſuch arguments as may demonſtrate the queſtion; and he that goes about to draw a child to him, may pull him by the long ſleeve of his coat, and need not to hire a yoke of Oxen.

2. That which will demonſtrate a truth to one perſon, poſſibly will never move another. Becauſe our reaſon does not conſiſt in a Mathematical point: and the heart of reaſon, that vital and moſt ſenſible part, in which onely it can be conquered fairly, is an ambulatory eſſence, and not fixed; it wanders up and down like a floating Iland, or like that which we call the life bloud; and it is not often very eaſy to hit that white by which onely our reaſon is brought to perfect aſſent: and this needs no other proof but our daily experience, and common notices of things. That which at one time is not regarded, at another time is a prevailing motive; and I have obſerved that a diſcourſe at one time hath been lightly regarded, or been onely pleaſing to the ear, which a year or two after hath made great impreſſions of piety upon the ſpirit of the hearers. And therefore, that I can anſwer the argument, it is not enough to make me think it neceſſary to lay it aſide or to deſpiſe it; there may be ſomething in him that hears me, that can make the argument to become perfect and effectual; and the want of that it may be in me, makes me apt to ſlight it. And beſides that ſome pretended anſwers are illuſions rather then ſolutions it may be, that beyond my anſwer, a wiſer man may make a reply, and confirm the argument ſo as I know not: and therefore if it be truth you perſwade, it were altogether as

good, and I am ſure much more eaſy to let the man you perſwade, enter at the firſt and broadeſt gate of the true propoſition, then after having paſs'd thorough a great many turnings and labyrinths, at laſt come but to the ſame place where he might firſt have entred. There are ſome witty men that can anſwer any thing; but ſuppoſe they could not, yet it would be impoſſible that men ſhould be tied in all caſes to ſpeak nothing but demonſtrations.

3. Some men are to be wrought upon not by direct argument, but by artifices and back blows; they are eaſy enough to beleeve the truth, if they could; and therefore you muſt, to perſwade them, remove their prejudices and prepoſſeſſions; and to this purpoſe, it will not be neceſſary to bring thoſe things which are proper to the queſtion, but things accidental and extrinſecal. They who were prejudic'd at our bleſſed Saviour becauſe he was of *Galilee*, needed no other argument to make them to beleeve in him, but to confute that fooliſh Proverb, *Out of Galilee comes no good:* and yet he that from thence thinks the queſtion of his being the Meſſias ſufficiently concluded, is very farre from underſtanding the effect and powers of argument.

4. The hindrances of beleef are ſeated in ſeveral faculties, in our fancy, in our will, in our appetite: now in theſe caſes there is no way to perſwade, but by arguing ſo as to prevail with that faculty. If any man ſhould ſay that our bleſſed Saviour is not yet come in the fleſh, upon a fooliſh fancy that he beleeves not, that God would honour ſuch a wicked nation with ſo great a glory, as that the Saviour of the world ſhould be born of them; he needs no argument to perſwade him to be a Chriſtian, but by having it prov'd to him, that it was not onely likely, but really ſo, and neceſſary it ſhould be ſo, not onely for the verification of the Prophecies of him, but for divers congruities in the nature and circumſtances of things. Here the argument is to confute the fancy onely, not the reaſon.

5. Sometimes the judgement is right, but the affections are perverſe; and then, not demonſtrations, but popular arguments are not onely lawful, but uſeful, and ſufficient. For reaſons of abſtracted ſpeculation move not the lower man. Make the people in love with your propoſition, and cauſe them to hate the contrary, and you have done all that they are capable of. When ſome Divines in *Germany* were forced for their own defence to gain the people to their party, they diſputed againſt the abſolute decree of reprobation, by telling them that their Adverſaries doctrine did teach that God did drag the pretty children from their Mothers breaſts, and throw many of them into the eternal portion of Devils: This mov'd the women, who follow reaſon as far as they can be made in love with it, and their underſtanding is oftentimes more then in their heart then in their head. And there are thouſands of people, men and women, who *beleeve* upon no other account then this, neither can they be taught otherwiſe. When S. *Paul* would perſwade the Jews to reaſon, and from laying violent hands upon him; he was not to attempt it by offering undeniably to prove that he did well by going to the Gentiles, ſince God had rejected the Jews, excepting a remnant onely: but he perſwaded them by telling them he did nothing againſt the Law of *Moſes* and the Temple.

6. There are ſome fondneſſes, and ſtrange adherencies to trifles in moſt people, humors of the Nation, love of the advantage of their families, relations to ſects, or dignities, natural ſympathies and antipathies, in a correſpondency to which, all thoſe arguments which are dreſs'd, are like to prevail, and cannot otherwiſe doe it. For when a mans underſtanding is mingled with intereſt, his arguments muſt have ſomething of *this*, or elſe they will never ſtirre *that:* and therefore all our arguments cannot be freed from ſuch allays.

7. In

7. In all the diſcourſes of men, not onely Orators, but Philoſophers, and even in their ſevereſt diſcourſes, all the good and all the wiſe men of the world heap together many arguments, who yet cannot ſuppoſe them all certain; but yet they therefore innocently uſe them, becauſe as there are ſeveral capacities of men to be dealt withal; ſo there are ſeveral notices of things; and that may be highly concluding, which it may be is not well repreſented, and therefore not fancied or obſerved by him that uſes it; and to another it becomes effective becauſe he does.

8. The holy Spirit of God himſelf in his entercourſes with men is pleas'd to deſcend to our capacities, and to uſe arguments taken from our own principles, and which prevail more by ſilencing us, rather then demonſtrating the thing. Thus S. *Paul* in his arguments for the Reſurrection uſes this; *If Chriſt be not riſen, then is our preaching vain, and your faith is alſo vain.* There are ſome, even too many now adays, and many more then, who would have granted both the antecedent and the conſequent; but becauſe the *Corinthians* diſavowed the conſequent, they were forced to admit the antecedent. And at laſt, thouſands of perſons could never be drawn from their error, if we might not make uſe of arguments, weak like their capacities, and more proportionable to their Underſtanding then to the Queſtion. 1 Cor. 15. 14.

There are two Cautions to be added to make the Rule perfect:

1. That if the Diſciple relying upon his Maſters authority, more then his own ability to judge, ask the Doctor, whether upon his knowledge and faith that argument does evict the queſtion; if the Doctor himſelf does not beleeve it, he muſt then put no more force upon it by his affirmation and authority, then he thinks it does in nature bear; but muſt give prudent accounts of the whole queſtion in compliance to the preſent neceſſity of the demander.

Of the ſame conſideration it is, when a queſtion being diſputed between two parties, the ſtanders by expect the trueſt and moſt proper account of things. In this caſe, all openneſs and ingenuity is to be uſed according to our own ſenſe of things, not according to what may comply with any mans weakneſs; and the not doing ſo is want of ingenuity, and the worthineſs of Chriſtian charity, and a perfect deceiving them who expect and deſire ſuch things as ought to be finally relied upon.

2. In all arguments which are to prevail by the weakneſs, or advantages taken from the man, he that goes about to perſwade, muſt not ſay any thing that he knows to be falſe; but he muſt comply and twiſt about the mans weakneſs, ſo as to be innocent all the way. Let him take him that is weak and wrap him in ſwadling clothes, but not encompaſs him with ſnakes: But yet this hath one looſe and permiſſion that may be uſed.

11. 3. It is lawful for a man in perſwading another to a truth, to make uſe of a falſe propoſition, which he that is to be perſwaded already doth beleeve: that is, a man may juſtly diſpute upon the ſuppoſition, not upon the conceſſion and granting of an error. Thus S. *Paul* diſputed with the *Corinthians*, and to induce them into a beleef of the reſurrection, made uſe of a fooliſh cuſtome among them in uſe, of being baptized for the dead. For the Chriſtian Church hath but two Sacraments, *Baptiſm* and the *Lords Supper*; at the beginning ſome of the Chriſtians uſed Baptiſm, and in ſucceeding ages, they uſed to celebrate the Lords Supper for the dead, and doe to this day in the Church of *Rome*. Upon this fond cuſtome of theirs, S. *Paul* thus argues: If there be no reſurrection, then it is to no purpoſe that you are baptized for the

dead; but that is to purpoſe (as you ſuppoſe) therefore there is a reſurrection. Thus prayer for the dead, and invocation of Saints, according to the principles taught in the Primitive Church, might have been made uſe of againſt each other. If all men are imperfect till the day of Judgement, and till then enter not into heaven, then you cannot with confidence make prayers to them, who for ought you know, need your help more: But if all that die well, that is, if all that die in the Lord doe inſtantly enjoy the Beatifical viſion, and ſo are in a condition to be prayed to, then they need not to be prayed for. As for the middle place, they in thoſe ages knew no ſuch thing, as men have ſince dream'd of. As God in ſome caſes makes uſe of a prepared wickedneſs, though he infers none, much leſs does he make any to be neceſſary and unavoidable; ſo may good men and wiſe make uſe of a prepared error, a falſhood already beleev'd; but they muſt neither teach, nor betray any one into it.

The objections mentioned in the ſtate of this queſtion, are already anſwered in the ſtating the propoſitions.

But now ariſes another queſtion, and the ſolution will follow upon the ſame grounds.

Queſt.

12. WHether it be lawful for a good end for Preachers to affright men with Panick terrors, and to create fears that have no ground; as to tell them if they be liars, their faces will be deformed; if they be perjur'd, the devil will haunt them in viſible ſhapes; if they be ſacrilegious, they ſhall have the leproſy; or any thing whereby weak and ignorant people can be moſt wrought upon?

I anſwer briefly:

13. 1. There are terrors enough in the new Teſtament to affright any man from his ſins, who can be wrought upon by fear: and if all that *Moſes* and the Prophets ſay, and all that Chriſt and his Apoſtles publiſhed be not ſufficient, then nothing can be. For I am ſure, nothing can be a greater, or more formidable evil then hell; and no terrors can bring greater affrightment, then thoſe which are the proper portion of the damned. But the meaſures of the permiſſion and liberty that can be uſed, are theſe:

14. 1. A Preacher or Governour may affright thoſe that are under them, and deterre them from ſin, by threatning them with any thing *which probably may happen.* So he may denounce a curſe upon the eſtate of ſacrilegious perſons, robbers of Churches, oppreſſors of Prieſts, and Widows, and Orphans; and particularly, whatſoever the Widow or Orphan in the bitterneſs of their ſouls doe pray, may happen upon ſuch evil perſons; or what the Church in the inſtruments of donation have expreſſed: as, to die childleſs; to be afflicted with the gout; to have an ambulatory life, the fortune of a penny, ſince for that he forſakes God and his religion; a diſtracted minde or fancy, or any thing of this nature. For ſince the curſes of this life and of the other are indefinitely threatned to all ſinners, and ſome particularly to certain ſins, as want is to the deteiners of Tithes, a wandring fortune to Church-robbers; it is not unreaſonable, and therefore it is lawful to make uſe of ſuch particulars as are moſt likely to be effective upon the conſciences of ſinners.

Malachi 3. 8, &c. Pſa. 83. 13.

15. 2. It is lawful to affright men with the threatning of any thing that is *poſſible to happen in the ordinary effects of providence.* For every ſin is againſt an

an infinite God, and his anger is ſometimes the greateſt, and can produce what evil he pleaſe; and he uſes to arm all his creatures againſt ſinners, and ſometimes ſtrikes a ſtroke with his own hand, and creates a prodigy of example to perpetuate a fear upon men to all ages.

But this is to be admitted with theſe Cautions:

1. It muſt be done ſo as to be limited within thoſe ways which need not ſuppoſe a miracle to have them effected. Thus to threaten a ſinner in *England*, that if he prophanes the holy Sacrament, a Tigre ſhall meet him in the Church-yard and tear him, is ſo improbable and unreaſonable, that it is therefore not to be done, leſt the authority, and the counſel, and the threatning become ridiculous: but we have warrant to threaten him with diſeaſes, and ſharp ſickneſſes, and temporal death; and the warrant is deriv'd from a precedent in Scripture, Gods dealing with the *Corinthian* Communicants. 1 Cor. 11. 30.

2. He who thus intends to diſſwade, muſt in prudence be careful that he be not too decretory and determinate in the particular; but either wholly inſtance in general threatnings, or with exceptive and cautious terms in the particular; as, *Take heed leſt ſuch an evil happen:* or, *It is likely it may*, and *we have no ſecurity for a minute againſt it*; and *ſo God hath done to others.*

3. Let theſe be onely *threatnings*, not *propheſies*, leſt the whole diſpenſation become contemptible; and therefore let all ſuch threatnings be underſtood with a proviſion, that if ſuch things doe not happen, the man hath not eſcaped Gods anger, but is reſerv'd for worſe. God walketh upon the face of the waters, and his footſteps are not ſeen; but however, evil is the portion of the ſinner.

16. 3. In all thoſe threatnings which are according to the analogy of the Goſpel, or the ſtate of things and perſons with which we have entercourſe, we may take all that liberty that can by apt inſtruments concurre to the work of God; dreſſing them with circumſtances of terror and affrightment, and repreſenting ſpiritual events by metaphors, apologues and inſtances of nature. Thus our bleſſed Lord expreſſing the torments of hell, ſignifies the greatneſs of them by ſuch things which in nature are moſt terrible; as *brimſtone and fire*, *the worm of conſcience*, *weeping and wailing*, *and gnaſhing of teeth.* But this I ſay muſt ever be kept within the limits of analogy to what is reveal'd, and muſt not make excurſions to extraregular and ridiculous ſignifications. Such as is the fancy of ſome Divines in the *Romane* Church, and particularly of *Cornelius à lapide*, that the ſouls of the damned ſhall be roll'd up in bundles like a heap and involv'd circles of ſnakes, and in hell ſhall ſink down like a ſtone into the bottomeleſs pit, falling ſtill downward for ever and ever. This is not well; but let the expreſſions be according to the proportions of what is reveal'd. The Divines in ſeveral ages have taken great liberty in this affair, which I know no reaſon to reprove, if ſome of their tragical expreſſions did not, or were not apt to paſs into dogmatical affirmatives, and opinions of reality in ſuch inventions. In Apocal.

17. 4. If any *extraregular example* hath ever happened, *that* may be made uſe of to affright men from the ſame or the like ſins, and ſo paſs into a regular warning. Thus, though it but once happened, that God puniſhed rebellion by cauſing the earth to open and ſwallow up the Rebels againſt their Prince and Prieſt, *Moſes* and *Aaron*, that is, it is but once recorded in holy Scripture; yet God hath the ſame power now, and the ſame anger againſt Rebel-

Rebellion; and as he can, ſo we are not ſure that he will not oftentimes doe the ſame. Whatſoever hath happ'ned and can happen, we ought to fear leſt in the like caſes it ſhould happen. And therefore this is a proper inſtrument of a juſt fear, and apt rightly to miniſter to a ſure and a right Conſcience.

18. 5. If any prodigy of accident and judgement hath happened, though it be poſſible it may be done for the manifeſtation of the Divine glory, yet becauſe it is ten thouſand to one, but it is becauſe of ſin too; this may be made uſe of to affright ſinners, although there be no indication for what ſin that judgement happened. Thus the ruine of the Greek Monarchy finiſhed upon the day of Pentecoſt: the fearful and prodigious ſwallowing up the Cities of the *Coloſsians* and *Laodiceans*; the burning Towns and Villages by eruption of fire from mountains; the ſudden cataracts of water breaking from the *Indian* hills; the ſudden deaths and madneſs of many people; the horrible ruine and deſolation of families and kingdomes, may be indifferently uſed and propounded to all ſorts of perſons, where there is need of ſuch violent courſes: and provided that they be charitably and prudently applied, may effect fear and caution in ſome ſinners, who otherwiſe would be too ready for gaieties and unſafe liberties.

19. 6. To children and fools, and all thoſe whoſe underſtanding is but a little better, it hath been in all ages practiſed, that they be affrighted with Mormoes and Bugbears, that they may be cozen'd into good. But this is therefore permitted, becauſe other things which are real, certain, or probable, cannot be underſtood or perceiv'd by them: and therefore theſe things are not to be permitted, where it can well be otherwiſe. If it cannot, it is fit that their underſtandings ſhould be conducted thither where they ought to goe, and by ſuch inſtruments as can be uſeful.

Rule 7.

A Conſcience determin'd by the counſel of wiſe men, even againſt its own inclinations, may be ſure and right.

FOR in many caſes the counſel of wiſe men is the beſt argument; and if the conſcience was firſt inclined by a weaker, every change to a better is a degree of certainty: In this caſe, to perſiſt in the firſt inclination of conſcience, is *obſtinacy*, not *conſtancy*: But on the other ſide, to change our firſt perſwaſion when it is well built, for the counſel of men of another perſwaſion, though wiſer then our ſelves, is *levity*, not *humility*. This Rule is practicable onely in ſuch caſes where the Conſcience obſerves the weakneſs of its firſt inducement, or juſtly ſuſpects it, and hath not reaſon ſo much to ſuſpect the ſentence of wiſer men. How it is further to be reduc'd to practice, is more properly to be conſidered in the third Chapter, and thither I referre it.

RULE 8.

He that ſins againſt a right and a ſure Conſcience, whatever the inſtance be, commits a great ſin, but not a double one.

1. HIS ſin is indeed the greater, becauſe it is leſs excuſable and more bold. *For the more light there is in a regular underſtanding, the more malice there is in an irregular will. If I had not come to them* (ſaid Chriſt) *they had not had ſin*; *but now have they no cover for their ſin*: that is, becauſe they are ſufficiently taught their duty. It is not an aggravation of ſin, barely to ſay, *it was done againſt our conſcience*: for all ſins are ſo, either directly or indirectly, mediately or immediately, in the principle or in the emanation. But thus; the more ſure and confident the conſcience is, the ſin receives the greater degree. It is an aggravation of it, that it was done againſt a clear light, and a full underſtanding, and a perfect, contrary determination. John 15.22.

2. But even then it does not make it to be a *diſtinct ſin*. *Whatſoever is not of faith is ſin* (ſaid the Apoſtle) but he did not ſay it was two. It is a tranſcendent paſſing upon every ſinful action, that it is againſt a known law, and a contrary reaſon and perſwaſion; but if this could make the act to be doubly irregular, by the ſame reaſon, every ſubſtance muſt be two, *viz.* by having *a being*, and *a ſubſtantial being*. And the proper reaſon of this is, becauſe the conſcience obliges and ties us by the band of the Commandement, the ſame individual band, and no other. The conſcience is therefore againſt the act, becauſe the Commandement is againſt it; the Conſcience being Gods *remembrancer*, the *record*, and the *regiſter* of the Law. A theef does not ſin againſt the *Law* and the *Judge* ſeverally; neither does the *Magiſtrate* puniſh him one way, and the *Law* another. The conſcience hath no law of its own, but the law of God is the Rule of it. Therefore where there is but one obligation to the duty, there can be but one deformity in the prevarication. But,

3. In ſins where there is *a double formality*, there indeed *in one action* there may be *two ſins*, becauſe there is *a double law*: as he that kills his Father ſins twice, he is *impious* and *unjuſt*; he breaks the laws of *piety* and *juſtice*; he ſins againſt the *fifth* and the *ſixth* Commandements at once; he is a *murderer*, and he is *ungrateful*, and he is *impious*. But in ſins of a *ſingle nature* there is but a *ſingle relation*. For the Conſcience and the Law is the *Rule* and the *Parchment*; and he that ſins againſt the one, therefore alſo ſins againſt the other, becauſe they both terminate but one relation.

4. But although he does not commit two ſins, yet he commits one great one, there being nothing that can render an action culpable or imputable in the meaſures of juſtice, but its being a deviation from, or a contradiction to the Rule. It is againſt my conſcience, that is, againſt my illuminated and inſtructed reaſon, therefore it is a ſin: this is a demonſtration, becauſe it is againſt God, and againſt my ſelf; againſt my reaſon, and his illumination; and that is, againſt all bands Divine and Humane.

Queſt.

Queſt.
5. BUT then what ſhall a Judge doe, who knows the witneſſes in a criminal cauſe to have ſworn falſly? The caſe is this: *Conopus* a *Spartan* Judge, walking abroad near the gardens of *Oneſicritus*, eſpies him killing of his ſlave *Aſotus*; who to palliate the fact, himſelf accuſes another of his ſervants [*Orgilus*] and compell'd ſome to ſwear it as he affirm'd. The proceſs was made, advocates entertain'd by *Oneſicritus*, and the poor *Orgilus* convict by teſtimony and legal proof. *Conopus* the Judge knows the whole proceſs to be injurious, but knows not what to doe, becauſe he remembers that he is bound to judge according to allegation and proof, and yet to doe juſtice and judgement, which in this caſe is impoſſible. He therefore inquires for an expedient, or a peremptory reſolution on either hand: Since he offends againſt the Laws of *Sparta*, the order of law and his own life, if he acquits one who is legally convicted; and yet if he condemnes him whom he knows to be innocent, he ſins againſt God, and Nature, and againſt his own Conſcience.

6. That a Judge not onely may, but is oblig'd to proceed according to the proceſs of Law, and not to his own private Conſcience, is confidently affirmed by *Aquinas*, by his *Maſter*, and by his *Scholars*, and of late defended earneſtly by *Didacus Covarruvias* a learned man indeed and a great Lawyer; and they doe it upon this account:

7. 1. For there is a double perſon or capacity in a Judge; He is a private perſon, and hath ſpecial obligations and duties incumbent upon him in that capacity; and his conſcience hath a proper information, and gives him laws, and hath no ſuperiour but God: and as he is ſuch an one, he muſt proceed upon the notices and perſwaſions of his Conſcience, guided by its own meaſures. But as he is a *Judge*, he is to doe the office of *a Judge*, and to receive information by *witneſſes* and *ſolemnities of Law*, and is not to bring his own private conſcience to become the publick meaſure. Not *Attilius Regulus*, but the *Conſul* muſt give ſentence: and ſince he is bound to receive his information from witneſſes, as they prove, ſo the Law preſumes; whoſe Miniſter becauſe he is, if there be any fault, it is in *the Law*, not in *the Judge*, and in this caſe, the Judge does not goe againſt his conſcience, becauſe by oath he is bound to goe according to Law. He indeed goes againſt his private knowledge; but that does not give Law to a Judge, whoſe knowledge is to be guided by other inſtruments. 2. * And it is here as in caſe of execution of ſentences, which is another miniſtery of Law. *Ordinarius tenetur obſequi Delegato, etſi ſciat ſententiam illam injuſtam, exequi nihilominùs tenetur eandem*, ſaid *Innocentius* III. The Executioner is not to refuſe his office, though he know the Judge to have condemned an innocent; for elſe he might be his Judges Judge, and that not for himſelf alone, but alſo for the publick intereſt: For if an Executioner upon his perſwaſion that the Judge did proceed unjuſtly againſt the life of an innocent, ſhall refuſe to put him to death, he judges the ſentence of the Judge over again, and declares publickly againſt it, and denies to the Commonwealth the effect of his duty: ſo does a Judge, if he acquits him whom the Law condemnes, upon the account of his private knowledge. 3. * It is like ſpeaking oracles againſt publick authority from a private ſpirit. 4. * Which thing if it were permitted, the whole order and frame of Judicatures would be altered, and a door opened for a private and an arbitrary proceeding: and the Judge if he were not juſt, might defame all witneſſes, and acquit any

Cap. paſtoralis. § quia verò. De officio & poteſtate Judicis Delegati.

any criminal, and transferre the fault to an innocent and unsuspected, and so really doe that which he but pretends to avoid. * And the case would be the same, if he were a man confident and opionative. For he might seem to himself to be as sure of his own reason, as of his own sense; and his conscience might be as effectively determined by his argument as by his eyes; and then by the same reason he might think himself bound to judge against the sentence of the Law according to his own perswasion, as to judge against the forms of Law, and proceedings of the Court according to his own sense. * And therefore not onely in Civil but in the Ecclesiastical Courts we finde it practised otherwise: and a Priest may not refuse to communicate him whom he knows to have been absolved upon a false allegation, and unworthily; but must administer Sacraments to him according to the publick voice, not to his own private notice: for it would be intolerable, if that which is just in publick should be rescinded by a private pretence, whether materially just or no; not onely because there are other measures of the publick and private, and that to have *that* overborn by *this* would destroy all Government; but because if this private pretence be admitted, it may as well be falsly as truly pretended: And therefore since real justice by this means cannot be secured, and that unless it were, nothing could make amends for the publick disorder, it follows that the publick order must be kept, and the private notice laid aside. * For the Judge lays aside the *affections* of a man, when he goes to the seat of judgement; and he lays aside *his own reason*, and submits to the reason of the Law; and *his own will*, relinquishing that to satisfy the Law; and therefore he must bring nothing of a private man with him, but his own abilities fitted for the publick. * And let no man in this case pretend to a zeal for truth and righteousness; for since in Judicatures, *legal* or *seeming truth* is all that can be secured, and with this the Laws are satisfied, we are sure we may proceed upon the testimony of concurring witnesses, because they doe speak legal truth, and that being a proportionable conduct to legal persons, is a perfect rule for the conscience of a Judge; according to the words of our blessed Saviour quoted out of *Moses* Law, *It is written in your Law, The testimony of two men is true*, that is, it is to be accepted as if it were true, and proceedings are to be accordingly. In pursuance and verification of this, are those words of S. *Ambrose*, *Bonus Judex nihil ex arbitrio suo facit, & domesticæ propositio voluntatis, sed juxta leges & jura pronunciat, scitis juris obtemperat, non indulget propriæ voluntati, nihil paratum & meditatum domo defert, sed sicut audit, ità judicat.* "A good Judge does nothing of his will, or the purpose of his "private choice, but pronounces according to Laws and publick right, he "obeys the sanctions of the Law, giving no way to his own will, he brings "nothing from home prepared and deliberated, but as he hears, so he judges. This testimony is of the more value, because S. *Ambrose* had been a Judge and a Ruler himself in Civil affairs, and therefore spake according to the sense of those excellent Laws, which almost all the civil world have since admitted. * And the thing is confessed in the parallel cases: For a Judge may not proceed upon the evidence of an instrument which he hath privately perused, if it be not produc'd in Court, though he by that could be inabled to doe justice to the oppressed party; for he does not know it as a Judge, but as a private man; and though that be a distinction without a real difference of subject, yet in effect it means, that the Laws doe not permit a Judge to take notice of any private information, which might prove an inlet to all manner of violence and robbery. * And therefore if a Priest hearing the Confession of *Caius*, understands that *Titius* was the complice of *Caius* his crime, he may not refuse

John 8.

In Psal. 118.

to

to abſolve *Titius*, though he doe not confeſs the fact in which he took part with *Caius*; becauſe he is to proceed by the method of that Court where he
11. ſits Judge. For private and perſonal notice is not ſufficient. * And if I doe privately know that my neighbour is excommunicate, I am not bound to refuſe him my ſociety, till I know it legally; and therefore much leſs may a Judge doe a publick act upon private notice, when we may not doe even a pri-
12. vate act referring to Law without a publick notice. * And all this is confirm'd by the authority of *Ulpian*, *Veritas rerum erroribus geſtarum non vitiatur, &*
L. 1. Licitas. §. veritas. *ideo Præſes provinciæ id ſequatur quod convenit eum ex fide eorum quæ probabuntur.* The truth of things is not prejudic'd by errors in matters of fact: and therefore let the Preſident of the Province follow that which is fitting for
13. him, proceeding by the faith of thoſe things which ſhall be proved. * For ſince no man muſt judge by his own private authority, he muſt not judge by
14. his own private knowledge. * And to what purpoſe ſhall he call in witneſſes to give him publick information, if when they have done ſo, he by his private may reject the publick?

8. But if after all this you inquire what ſhall become of the Judge as a man, and what of his private conſcience? theſe men anſwer; That the Judge muſt uſe what ingenious and fair artifices he can to ſave the innocent, or to doe juſtice according to truth, but yet ſo as he may not prevaricate the duty of a Judge: he may uſe the prudence of a friend and a private man: let him by various and witty interrogatories, in which he may be helped by the advantage of his private knowing the ſecret, make ways to entrap the falſe witneſſes, as *Daniel* did to the *two Elders* in the caſe of *Suſanna*: or let him referre the cauſe to the ſupreme power, or reſign his office, or make a deputation to another, or reprieve the injur'd man, or leave a private way for him to eſcape, or uſe his power of interpretation, or finde ſome way to elude the unjuſt hand of juſtice, which in this caſe does him wrong by doing right. But if none of theſe ways, nor any other like them can preſerve the innocent man, or the Judges private conſcience, he muſt doe juſtice according to Law, ſtanding upright as a publick perſon, but not ſtooping to particulars, or twiſting himſelf by his private notices.

9. This is the ſumme of what is or can be ſaid in this opinion; and though they ſpeak probably and well, yet I anſwer otherwiſe, and I ſuppoſe, for reaſons very conſiderable. Therefore,

To the Queſtion I anſwer, That a Judge in this caſe may not doe any publick act againſt his private conſcience; he may not condemne an innocent whom he knows to be ſo, though he be prov'd criminal by falſe witneſſes. And my reaſons are theſe:

10. 1. *Innocentem & juſtum non occides* (ſaid God) to ſlay an innocent perſon
Exod. 23. 7. is abſolutely and indiſpenſably evil. Upon which ground I argue; That which is in its own nature eſſentially and abſolutely evil, may not be done for any good, for any pretence, for any neceſſity, nor by any command of man. Since therefore in the preſent caſe, the man is ſuppoſed innocent, he ought not to be deli vered to death for any end in the world; nor by any authority, much leſs for the preſervation of the forms of Courts, or to prevent a poſſible evil that may accidentally and by abuſe ariſe; eſpecially ſince the Queſtion here is not matter of prudence or policy, but of juſtice and conſcience; nor yet of the publick intereſt, but of the Judges duty; nor at all, what the Laws

Laws actually doe conſtitute and appoint, but what the Judge may really practiſe. Now, in all caſes, if a man dies, it muſt be *by the merit of the cauſe*, or for *ſome publick end.* The *firſt* is not ſuppos'd in this queſtion, becauſe the man is ſuppoſed innocent; and if the *latter* be pretended, it is an open profeſſion of doing evil that good may come of it. And if it be anſwered, that this is true, if the man did appear to be innocent, but in Law he appears otherwiſe. I reply, that it is true, to the Law he does ſo, but not to the Judge; and therefore though the Law can condemne him, yet ſhe cannot doe it by that Judge. He muſt not doe it, becauſe it being by an unavoidable defect, or error, that the Law may doe it, and if the Law could be rightly informed, ſhe would not, ſhe could not doe it, it follows that the Judge who is rightly informed can no more doe it then the Law it ſelf, if ſhe had the ſame information.

11. 2. To judge according to forms and proceſſes of Law, is but of humane poſitive right and conſtitution; for the Law may command a Judge to proceed according to his own knowledge, if ſhe will truſt him and his knowledge: and in all arbitrary Courts it is ſo; and in the ſupreme power it is always ſo, if it be abſolute. But not to condemne the innocent, is of Divine and eternal right, and therefore cannot be prejudic'd by that which only is humane. And indeed if we look into the nature and cauſes of things, we ſhall finde, that the reaſon why Judges are tied to forms and proceſſes of Laws, to teſtimonies and judicial proofs, is, becauſe the Judge is ſuppoſed not to know the matters brought before him, till they appear in the forms of Law. For if a Judge did know mens hearts, and the ſecrets of things and cauſes, ſuppoſing him to be honeſt, he were the fitteſt perſon in the world to be a Judge, and can proceed ſummarily, and needs no witneſſes. But this is the way of the Divine judgement, who proceeds upon his own knowledge, though for the declaration of his juſtice to men, he ſometimes ſeems to uſe proceſſes, and meaſures of humane inquiry; as in the caſe of *Sodome*, and the like. And in proportion, if God ſhould reveal to a Judge the truth of every cauſe that lies before him, I think no man doubts, but he might ſafely proceed to judgement upon that account. This was the caſe of *Daniel* and *Suſanna*. For ſhe was convicted and proved guilty by concurrent witneſſes; God revealed the truth to *Daniel*, and he arreſted judgement upon that account. Upon examination of the witneſſes he findes them diſagree in the circumſtances; but this was no legal conviction of their falſhood in the main; but it was therefore ſufficient, becauſe *Daniel* came in the manner of a Prophet, and knew the truth from God, not by forms of Law. Now it matters not (as to the juſtice of the proceeding) which way the truth be known; for the way of receiving it is but extrinſecal to the main queſtion: and as *Daniel* being made Judge by God, might not have conſented to the death of *Suſanna*, though not onely the two Elders, but ten more had ſworn that they had ſeen *Suſanna* ſin: ſo neither can a Judge, to whom God by ſome ſpecial act of providence in behalf of truth and innocence hath made known the matter, proceed to ſentence againſt that knowledge, which he by Divine diſpenſation hath received.

12. 3. If a King or Senate, or any ſupreme power receive teſtimony of a matter of fact concerning any of their Council, whom they know to be innocent; as if it be legally proved that *Sempronius* robb'd a man upon the Kalends of *March*, a hundred miles from the place where the King or Senate ſaw him ſitting all that day; that they may not deliver him to death appears therefore becauſe they being accountable to none but God, muſt judge by his meaſures, that is, ſo as to preſerve the innocent, and not by thoſe meaſures which mens

neceſſity, and imperfection, and weakneſſes have made regularly neceſſary. But that which is regularly neceſſary, may irregularly, and by accident in ſome caſes be unjuſt, and in thoſe, the ſupreme power muſt make proviſions where it can, and it can when it knows the truth of the particular. For ſince the Legiſlative power can diſpenſe in the adminiſtration of its own Laws upon particular neceſſities, or charity *upon the affirmation and petition of him that needs it:* much more muſt it diſpenſe with the forms of proceedings in a caſe of ſuch neceſſity, and juſtice, and charity, and *that upon their own knowledges.* The *affirmation* of the argument is, that Princes and Senates may, and muſt doe this; that it is neceſſary, and therefore alſo juſt in them to doe ſo. The *conſequent* of the argument is this: That therefore if private Judges may not doe ſo, it is becauſe they have no authority to doe ſo, but are compell'd by their Princes to proceed by forms: and if this be all, it declares the neceſſity of ſuch proceedings to be onely upon mans authority; and ſo, though by Law he may be bound to doe ſo, yet our inquiry being what he is tied to doe in conſcience, the Law cannot prevail above conſcience, the ſubordinate above the ſuperiour, there being in this caſe, a *knowledge of the fact*, and *the law of God* for *the right*.

13. 4. For the caſe is this; *God* ſays, Thou ſhalt not ſlay the innocent, and the *Judge* does certainly know, that the accuſed man is truly innocent: The concluſion is, *therefore this man muſt not die.* Againſt this, the argument oppoſed is this: *Humane authority* ſays, Thou ſhalt ſlay him that is convicted of a fault, whether by true or falſe witneſſes: Here are witneſſes which doe convict him, and I know them to be falſe: The concluſion is, *Therefore this man muſt die.* Which of theſe two arguments ought to prevail, I think needs not much inquiry.

14. 5. And what if *Titius* be accuſed for killing *Regulus*, whom the Conſul at that time hath living in his houſe, or hath lately ſent abroad; would not all the world hoot at him, if he ſhould deliver *Titius* to the Tormentors for killing the man whom the Judge knows to be at home, it may be dreſſing of his dinner, or abroad gathering his rents? But if this be ſo abſurd (as it is indeed extremely) it follows that he may uſe his private knowledge againſt a falſe teſtimony that is publick. Or how if he ſees the fact done before him in the Court? a purſe cut, or a ſtone thrown at his brother Judge, as it happened at *Ludlow* not many years ſince? The Judge proceeded to ſentence upon intuition of the fact, and ſtayed not for the ſolemnities of Law. Or put caſe that there be depoſitions offered on both ſides, for and againſt the innocent, either directly, or indirectly. If in this caſe the Judges private knowledge may determine for either, it follows that his private knowledge can be admitted as the inſtrument of juſtice; *and if it may, it muſt:* for nothing can hinder him to doe it, but becauſe he may not. But that he may, appears in the now alledged inſtances.

15. 6. *Adrianus* puts another caſe, in which it is alſo without contradiction evident that private notice is to be preferred before publick ſolemnity where there is an error in this and none in that. The caſe I chooſe to expreſs in this narrative. *Viretta* a naughty woman pretends to be wife to *Coloro* an *Italian* Gentleman, and brings a Prieſt and witneſſes whom ſhe had ſuborned, to prove the marriage. The Judge gives ſentence for *Viretta*, and commands *Coloro* to pay the duties of a husband to her, and to uſe her as a wife. He knows the

the contrary, and that he is husband to *Vittoria Moriſini*, and therefore pays her all his duty, and neglects the other; and he is bound to it, becauſe no mans error or malice can alter the Laws of God, and from paying that duty which he knows is due by the Laws of God, he cannot be excuſed by any formal error ariſing in the adminiſtration of the Laws of man. The ſame is the Judges caſe. For if the Law commands him to doe an act againſt a known private duty, he is ſo to follow the duty he knows he ows to God in preſerving the innocent, as *Coloro* is bound to preſerve his duty to his wife, and the Judge may no more commit murder then *Coloro* may commit adultery; but neither of them can be reſcued but by their private conſcience, therefore they may uſe that. And there is no eſcape in this inſtance, becauſe the Subject is as much bound to ſubmit to the ſentence of the Law, as the Judge is to the forms of it; and that which ſecures one, ſecures both.

16. 7. The evils that may be conſequent to the ſtrict adherence to the forms and proofs of Law againſt the Judges conſcience may be ſo great as to be intolerable, and much greater then can be ſuppoſed to be conſequent to the following a certain unſolemne truth. And there is no man, but put the caſe ſo as himſelf and his party may be involved in ruine by falſe witneſs, and he will grant that himſelf is by all means to be preſerved. Put caſe a whole order of the Clergy, of Monks, of Lawyers, ſhould be accuſed falſly and oppreſſed by evil men, as the Knights Templars were accuſed fiercely, and ſo were the Religious in *Henry* the eighths time: If the King had known that the Monks, and the Pope had known that the Templars had been innocent, no man ought to have perſwaded them to condemne the guiltleſs. For if the King had proceeded againſt them to confiſcation, making uſe of his advantage gotten by the ſin of vile men, the effect had been, that he would rather have gotten money by a lie, then have done juſtice to the oppreſſed according to his conſcience. And indeed becauſe it is not to be ſuppoſed but all the world would have given ſentence for themſelves in their own caſe, it is to be ſuppoſed that the contrary opinion is but the ſentence of men in proſperity, or of unexperienced Scholars who care not what load they put upon others to verify their own opinion. And what Chriſtian will not condemne *Pilate* for condemning the moſt holy Jeſus, according to the teſtimonies of his falſe accuſers, and againſt his own conſcience? And let the caſe be put, that the witneſſes had agreed, and proved foul things againſt the unſpotted Lamb of God, and made all clear in forms of Law, and that *Pilate* had known the Lord to be innocent and injur'd, could the water in the baſin have waſhed him clean, if he had againſt his conſcience in compliance with the ſolemne perjurers have condemn'd him who was purer then the Angels? In this caſe the effect had been intolerable, for which no pretence of neceſſity, or legal formalities could have made recompence.

17. 8. A Law founded upon preſumption binds not in the Court of Conſcience, when the preſumption is found to be an error. The Law preſumes that the heir entring upon an eſtate, if he makes not an Inventory, does it to conceal the goods and defraud the Creditors. But if an heir does ſo by negligence or ignorance, or an impertinent fear, or upon ill counſel, or be betrayed to doe ſo; If the Creditor knows that the goods are not ſufficient, he may not in conſcience take the advantage the Law gives him, but is bound to doe charity and juſtice by the meaſures of his private knowledge, and not

by the meaſures of the Law to doe violence and oppreſſion, which was the thing in queſtion.

18. 9. To the verification of the ſentence of death upon an accuſed perſon there are required, 1. A reality of the Crime. 2. A power in the Judge. 3. And equity in the Law. Now if divers men ſhould ſwear that the Judge hath a competent power, nay though they threaten him with death if he does not, yet he may not exerciſe any ſuch power, which himſelf privately knows that he hath not. So alſo if he knows the fact does not deſerve death, though men ſwear it, or a higher power declare it, or another competent Judge affirm it, yet a Judge muſt not conſent to it, if himſelf knows it to be unjuſt. And I have read of an excellent Prince, who becauſe he did conſent to the forms and proceſſes of Law made by his Senate againſt the braveſt of his Subjects, againſt his own conſcience and knowledge, repented of it all the days of his life, and was not pardon'd for it till the day of his death; and the firſt confidence he had of pardon was upon the account of S. *Pauls* words, *He that is dead is juſtified from ſins.* But then, ſince the defect of either of theſe two makes it unlawful for a Judge to proceed according to the forms of Law, and ties him to follow his conſcience even againſt allegation and proof, much more muſt it be ſo if there be *no reality of fact* in the accuſed party; becauſe in the deſtitution of this, the Laws themſelves have no power, and therefore they can give none to a Judge their Miniſter. *Juſtis lex non eſt poſita*; The Law was not made for the innocent, but to defend them, and therefore hath no power to deſtroy them; and then the Judge can have none, and ſo cannot in that caſe be tied to proceed according to formalities, and therefore muſt proceed according to his conſcience, or not at all. For,

19. 10. If a Law were made that a Judge ſhould be bound to condemne an innocent perſon, though he knows him to be ſo, and to be accuſed by calumny, and ſupplanted by perjury, it were an unjuſt Law, as all men (that I know of) grant, and indeed muſt grant. For it were a Law made to incourage perjurers and oppreſſors, to diſcourage innocence: a Law made againſt the intention of Laws, which is, to defend the right, and puniſh the wrong doer: it were a Law diſabling the Judge to reſcue the oppreſſed, and a Law expreſly diſowning the cauſe of the afflicted: and if any Judge ſhould undertake his office upon ſuch terms, he ſhould openly profeſs that if the caſe happened, he would doe againſt his conſcience. And all Laws going the beſt way they can to finde out truth, would never diſable a Judge to make uſe of it when he had found it out, and aſſiſted the inquiry of the Laws by a fortunate diſcovery. For the examining of witneſſes being but a means to finde out truth, cannot poſſibly be ſo adhered to, as to be preferred before the end to which it is deſign'd, that were *as if a man ſhould rather love to ſeek then finde.* Since therefore no Law ever was, or can be ſo unreaſonable as to decree that a Judge ſhall not in ſuch a caſe directly relieve the innocent, but proceed to his condemnation, it follows that he can have no obligation to doe ſo, and then the obligation of his conſcience can upon no pretence be declined. The Law does not intend to oblige the Judge in that caſe, becauſe no Law can be made expreſly to doe ſo; He therefore being free from the Law in that caſe, ſtands bound to his private conſcience, without excuſe. Nay, the Canon Law expreſly enjoyns that a Judge ſhould give ſentence according to his own conſcience, as appears in *c.* 1. *de re Judic. in* 6. *& in clem.* 1. §. *verùm de hæret.*

11. Sup-

20. 11. Suppoſe a Judge ſhould ſuborn falſe witneſſes againſt an innocent; either he is bound not to proceed according to allegation and proof, but according to his ſecret conſcience, or elſe he is bound to goe on in his crime, and effect that which he had maliciouſly deſigned. For it is not enough that he is bound to disingage the witneſſes and take off the ſubornation: for ſuppoſe the perſons already appearing will not ceaſe, leſt they ſhould be ſham'd and ruin'd, but will take confidence from their crime, and perſeverance from their publication, then there is no remedy for the innocent, neither can the Judge reſcue him from himſelf, nor give over ſinning, unleſs he proceed by his private certain meaſures, and not by thoſe which are falſe and publick. For to ſay he may be ſorry for his fault and yet proceed in it, is to make him an hypocrite: if he confeſſes that he ſuborned the witneſſes, and yet proceed to condemne the innocent, he is ridiculous, and makes the Law put on the face of tyranny and unreaſonable violence and oppreſſion. So that either he muſt goe on and ſin to the end without remedy, or he muſt be admitted to proceed by his private conſcience, and that in his caſe would be *juſtice* and *penitence* beſides.

21. 12. Laſtly, all Laws being intended for the good of the Subjects, are bound not onely to comply with their ordinary caſes by ordinary proviſions, but for their accidental needs by the extraordinary. And ſo we finde it, that all Laws yeeld in particulars, when the Law is injurious in the ſpecial caſes, and this is the ground of all Chancery, becauſe *ſummum jus, ſumma injuria*; and *Solomon* adviſed well, *Noli eſſe juſtus nimiùm*, be not over righteous; and the juſtice of God being ὑπείκεια, gentleneſs and favour, equity and mercy, ours is beſt when we follow the beſt precedent; now ſince no caſe is more favourable then the preſent, the Laws are unjuſt that will not bend and ſtoop to the miſeries of the oppreſſed; and therefore the Judge having no hindrance, he is tied by a double band to releeve the oppreſſed innocent, by his direct ſentence (where it can be admitted) or by his open declaration, and *quantum in ſe eſt*, but at no hand to conſent to his condemnation.

22. I conclude therefore with that rule of the Canon Law, *Melius eſt ſcandalum naſci quàm ut veritas deſeratur*; It is better that a ſcandal ſhould be ſuffered, and an offence done to the forms and methods of judicial proceedings, then that truth ſhould be betrayed and forſaken; and what was ſaid in the prophecie concerning our bleſſed Saviour, *Non ſecundùm auditum aurium arguet*, he ſhall not reprove according as he hears, but according as he knows, is alſo true of Judges in this caſe; they doe judge moſt perfectly when in truth and in defence of the innocent, they follow the pattern of the Divine judgement and not the imperfection of the humane, that is, they are to judge by the eyes, not by the eares; C. penult. de reg. jur.

Segniùs irritant animos demiſſa per aures
Quàm quæ ſunt oculis commiſſa fidelibus——

That is a ſure ſentence that can rely upon ocular demonſtration; for our eyes are a better guard of innocence then the tongues of Sycophants, and our conſciences are ſurer informers then the forms of Law; and ſince no Law hath declar'd againſt it, the conſcience is at perfect liberty; and yet if it were not, we are certain it is better to obey God then men; the conſcience is no mans ſervant, it is Gods onely. Conſcience is Gods Angel: *Grieve not the Angel leſt he ſmite thee, doe nothing againſt him, leſt he forſake thee. Viro bono fixum in omni vita eſt, tranſverſum unguem à recta conſcientia non diſcedere*, ſaid *Cicero*; Every

good man is perfectly resolved not to depart from his right conscience a hairs bredth during his whole life.

23. And now to the pretences which are made on the other side, there will be the less need of a reply, if we consider that they onely prove that a Judge is tied to observe the forms of judicial process, and to proceed according to allegation and proof, *ordinarily and regularly*, as supposing that this is the best ordinary way of information, as it is most certainly. But as the Law, using the best she hath, would not yet refuse a Prophet from heaven, or a miracle to bring truth from her retirements, or her vail, so neither will she refuse any better way that can be offered; but whatever the Law would doe, yet the question now being concerning the Judge, it is certain that the Judge in the case now put, hath a surer way of evidence; and therefore as the Law, if she had a surer way of evidence, ought not to goe against so clear a light, so neither can the Judge. And the arguments onely proceeding upon the usual suppositions conclude that *regularly* Judges must doe as usually they can doe, that is, proceed according to proof, because they can have no better way, but they cannot be drawn to this extraregular and rare contingency. For though most men are brought in upon suspicion or private accusation, yet the Apostle says that some mens sins are manifest, going before unto judgement: and when this happens, the Judge must not goe in inquest after what he sees. And the same arguments may as well be urged against all dispensations and remissions, against favour and Chancery, and destroy all equity, and all Religion, as to destroy all conscience when it is certain and infallible. But I shall say something to the particulars.

24. 1. It is true that a Judge hath a double capacity, and he hath offices proportionable; some *as a man*, some *as Judge*; that is, he hath some natural and essential obligations, some which are superinduc'd upon his office. And therefore I refuse to use this distinction as it is commonly used, and so made more subject to mistake and abuse. In this case the Judge is not to be considered as *a publick man, and a private man*; for *private* is as much superinduc'd as *publick*; and all his other relations are as much to yeeld to his essential duty, as that of a Judge: such as are the relation of a Husband, of a Father, of a Tutor, of a Master; and amongst these, the more private is often tied to yeeld to the more publick. But therefore in this case the *Judge* is to be considered as a *Judge* and as a *Man*; and in this case the duties are sometimes disparate, but never contrary; and when there is a dispute, the superinduc'd must yeeld to that which is original; for whatsoever is his duty as a man, the Judge may not prevaricate; for it is the man that is the Judge, in the *man* that office is subjected, and the office of a *Judge* is bound upon him by the conscience of the *man*. If the *Judge* had two consciences, and two real persons, then it were to be granted that they were to be served and attended to in their several callings; but it is not so, they are but *two persons in fiction of Law*, but *materially*, and to all real events, *the same*: it is the same conscience ministring to divers duties: And therefore as the *Judge* is always *that man*, so his conscience is the conscience of that man; and because *as a man* he must not goe against his conscience, so when that man is a Judge he must not goe against the mans conscience, for the Judge is still that man rul'd by that conscience. The essential duty of a man cannot by any superinduc'd formality be dispensed with. Now to goe according to our conscience and knowledge is the essential rule and duty of a man, which he cannot put off by being a Judge. The new office superinduces

induces new obligations, but none contrary, no more then he can ceaſe being a man by being a Judge. *Certè prior anima quam litera, & prior ſermo quàm liber, & prior ſenſus quàm ſtylus, & prior homo quàm philoſophus & poëta:* He is firſt a Man, and then a Philoſopher, a Poet, or a Judge; and that which is firſt cannot be prejudic'd by what is ſuperinduc'd. And if the *Judge* goe againſt the conſcience of the *man*, pretending to doe according to the conſcience of the *Judge*, the *man* ſhall be damned, and where *the Judge* ſhall then appear any child can tell. If the Biſhop of *Bayeux* as Earl of *Kent* will rebel againſt his Prince, the Earl of *Kent* ſhall loſe his head, though the Biſhop of *Bayeux* may plead his Clergy. For in this there is a great miſtake. To be *a man* and to be *a Judge* are not to be compar'd as two diſtinct capacities of equal conſideration. To be *a Biſhop* and to be *a Judge* are properly ſuch, and have diſtinct meaſures; but to be *a man* is the ſubject of the two capacities, and cannot be laid aſide as either of the other may; and therefore the diſtinction is vain and ſophiſtical, and if it could be admitted in Metaphyſicks (in which yet, it appears to have an error) yet it can never be ſuffered to paſs to real events. This being the ground of all the contrary opinion, and being found falſe, the ſuperſtructure muſt alſo fall to the ground. To the ſpecial caſes this I anſwer:

Tertul. lib. de teſtim. animæ

25. 2. An Executioner may not refuſe to doe his office though the Judge hath given an unjuſt ſentence: it is true onely when the matter is dubious, or not known, or intolerable. But if the Judge commands the Hangman to ſlay a Prophet alive, or to crucify Chriſt, or to ſtrike his King thorough with a ſword, I doubt not but the adverſaries themſelves will think he is not obliged to obey. *Indeed this ought not eaſily to be drawn into a rule, leſt ſuch people turn it into a pretence.* But if the Executioner be ſure, and the matter be notorious and ſuch as cannot deceive him, his hand ought not to be upon an innocent. For as Receivers are to Thieves, ſo are Executioners to unjuſt Judges. When the fact is notorious, and the injuſtice evident, then it is ſuch as all men can ſee it; and then, as if there were no Receivers there would be no Thieves; ſo if there were no Executioners of unjuſt ſentences, the Judge would be apt to reverſe his ſentence.

26. 3. Now whereas it is pretended that if a private notice were admitted againſt publick evidence, it were like a private ſpirit againſt a publick article, and would open a way to every pretenſion, it would diſſolve the forms of judicatures, and introduce many evils: I anſwer, that if all this were true, and that for this there could be no remedy, nor yet any recompence in the ſpecial caſes, it would follow that the Law were prudent if it did refuſe to admit ſuch a proceeding, unleſs ſhe had ſome reaſon to truſt the Judge: But this were nothing to the Judge. For the Law therefore refuſes his teſtimony, becauſe ſhe hath that which ſhe preſumes is better, and becauſe ſhe not knowing the ſecret follows the beſt way ſhe hath. But the Judge knows the ſecret, and he is not deceived, and he does not make pretences, for the caſe ſuppoſes him to ſpeak according to his conſcience; and therefore although tht Law in prudence does not beleeve him, yet he cannot but beleeve himſelf, and therefore in duty to God muſt proceed accordingly, or muſt not proceed at all.

27. 4. Neither is this like a private ſpirit againſt a publick article; becauſe this conſcience of the Judge does not impoſe upon the publick, who hath power to admit or to refuſe his ſentence; but it is onely for himſelf, and although his conſcience ought not to be the publick meaſure, yet it ought to be

his

his own. I doe not doubt but the Law may goe againſt the Judges conſcience, but the Judge himſelf may not goe againſt his own.

28. 5. And this we ſee verified in the matter of a private evidence; for though the Judge hath ſeen it in a chamber, yet he muſt not judge by it in the Court, the Law will not ſuffer him to doe ſo; but yet for himſelf he may ſo farre make uſe of it, as to be perſwaded in his conſcience, and to underſtand on which ſide the right ſtands, and to favour it in all the ways that are permitted him. But the caſe here being not matter of life and death, the Law hath power to diſpoſe of eſtates, and the conſcience of the Judge is not obliged to take more care of a mans money or land then himſelf does, but it can be obliged to take care of mens lives when the injured perſon is not able. A man may give away his eſtate, but he may not give his life away; and therefore he may loſe his eſtate by ſuch ways, by which he ought not to be permitted to loſe his life. Adde to this, that a Judge having ſeen an Inſtrument in private which could much clear the cauſe depending, may not upon that account proceed to ſentence, becauſe it may be the adverſe party can give an anſwer to it, and make it invalid; whereas in matters of fact of which the Judge is conſcious there is no uncertainty, nor fallibility. And laſtly, the ſuffering party in the queſtion of money or lands ſuffers no inconvenience, but what is outweighed to the publick by the order of juſtice and ſolemnities of Law, and the man that loſes to day for want of producing his evidence, may produce it to morrow and recover it. But in matter of life and death, nothing can make recompence to the oppreſſed innocent, and if he ſuffers to day, he cannot plead an error in the indictment to morrow. For theſe and many other conſiderations the caſe is wholly different.

29. 6. By ſome of theſe things we may alſo anſwer to the inſtance of a confident and opinionative Judge. He may not preferre his private opinion before the ſentence of the Law, and bring it into open judgement. 1. Becauſe he himſelf may be deceived in his opinion, and his confidence is no argument that he is not deceived. 2. Becauſe if the ſentence and decree of the Law be leſs reaſonable, yet the Judge without ſin may proceed to it, becauſe the more reaſonable is not in his choice, and the leſs reaſonable is not abſolutely and ſimply unjuſt. 3. In matters of prudence and civil government there is no demonſtration of reaſon, but the Legiſlative power may determine for the publick intereſt as is preſently apprehended, and may refuſe the better counſel, and yet doe well enough; for that which is ſimply the better is not in theſe caſes neceſſary; and in ſuch things a mans reaſon ought not to be ſo confident, as he is of *what he ſees*, or what is *matter of faith*; and therefore in theſe onely he is to be guided by *his own*, in the other he muſt proceed by *the publick meaſures*. And as in all things not demonſtratively certain or evident the Executioner is bound to obey the Judge; ſo is the Judge bound to obey the Law; and the preſumption will lie for the Law againſt the Judge, as it will lie for the Judge againſt the Officer. 4. And yet after all, I doe not doubt but if a Judges conſcience were effectively determin'd againſt a Law, and that he did beleeve it to be unjuſt and unlawful, he ought to follow his conſcience. As if a Judge did beleeve it to be a ſin to put a man to death for ſtealing 13.d ob. he might not condemne ſuch a theef to the Gallows. And he is not excuſed by ſaying, It is not the Judge but the Law that does amiſs. For if the Judge beleeve the Law to be unjuſt, he makes himſelf a partner in the injuſtice by miniſtring to an unjuſt Law againſt his conſcience. For not onely he that

that commands evil to be done is guilty, but he that obeys ſuch a command. In this caſe, either the Judge muſt lay aſide his *opinion* or his *office*, for his conſcience muſt not be laid aſide.

30. 7. The inſtance of a Prieſt and an excommunicate perſon unworthily abſolved will no way conclude this Queſtion. 1. Becauſe the caſe is infinitely differing between condemning an innocent, and acquitting the guilty. If any man pretends he is ſatisfied in conſcience that the accuſed perſon is criminal, though it cannot be legally proved, yet there is no wrong done, if the accuſed man be let free; an inconvenience there may be, but the Judge muſt not be permitted to deſtroy by his private conſcience, againſt or without legal conviction, becauſe the evil may be intolerable if it be permitted, and the injuſtice may be frequent and unſufferable; but if it be denied, there may ſometimes happen an inconvenience by permitting a Criminal to live, but there can be no injuſtice done. It may have excuſe, and it may have reaſon, and it may have neceſſity that a Judge refuſe to conſent to the death of an innocent, but that he ſhould againſt his conſcience kill him can have no warrant; and if he be not innocent, there may be reaſon to let him alone, but none to condemne him if he be. Conſcience can oblige a Judge to an unſolemne abſolution, but not to an illegal and unſolemne condemnation. This ſhould have been conſidered in the Earl of *Straffords* Caſe. The Law hath power to forgive the criminal, but not to puniſh the guiltleſs. And therefore if a man be abſolved when he deſerved it not, we may ſuppoſe him pardoned, and the private Prieſt is not his Judge in that caſe. For to refuſe to communicate him is an act of publick Judicature, and to abſolve him is an act of the ſame power, and therefore muſt be diſpenſed by authority, not by uſurpation, that is, by the publick ſentence, not by the private Miniſter, ſince to give the holy Communion to ſuch a perſon is not againſt any eſſential duty of a Chriſtian. And therefore if the Prieſt knows him unworthy to communicate, he may ſeparate him ſo farre as he hath power to ſeparate him, that is, by the word of his proper Miniſtery: let him admoniſh him to abſtain, repreſent his inſufficiency, threaten him with the danger; but if he will deſpiſe all this, the private Prieſt hath no more to doe, but to pray and weep for him, and leave him to God and the Church. But of this I am to ſpeak more largely in its proper place.

31. 8. As for the caſe of the Prieſt hearing Confeſſions, though he finde *Titius* accuſed by *Caius*, yet if *Titius* does not accuſe himſelf, *Titius* is rather to be beleeved in his own caſe then *Caius* in another mans. Becauſe in this entercourſe every man is ſo concern'd to doe his duty, that every man is to be beleeved for himſelf and againſt himſelf, becauſe if he ſpeaks falſe himſelf onely is the loſer. 2. *Caius* accuſing *Titius* may for ought the *Confeſſor* knows tell a lie and abuſe him, and therefore he cannot pretend knowledge and conſcience againſt *Titius*; and ſo this comes not home to the preſent caſe which ſuppoſes the Judge *to know* the accuſed perſon to be innocent. 3. This argument ſuppoſes that a man cannot be abſolved unleſs he enumerate all his ſins to the Prieſt, which being in many caſes falſe (as I have ſhewn otherwhere) that which relies upon it can ſignify nothing. Unum neceſſar.

32. 9. Laſt of all, although the Judge muſt lay aſide *his affections* and *his will*, and *his opinion* when he ſits upon the ſeat of judgement, becauſe theſe are no good meaſures of Judicature, nor ought to have immediate influence upon the ſentence; yet he cannot lay aſide his *knowledge*, and if he lay aſide his *conſcience* he will make but an ill Judge. 2. And yet the Judge muſt lay his

his affections and his will aſide never but when they tempt him to injuſtice. For a Judge muſt not ceaſe to be *merciful* when it does not make him *unjuſt*; nor need he ceaſe to pleaſe himſelf, ſo long as he is pleaſed to doe right: theſe if they doe hurt indeed muſt be left off, elſe not; and therefore it cannot with any colour from hence be pretended that he muſt lay aſide his knowledge when it is the onely way by which he can doe good.

33. 10. To the authority of S. *Ambroſe*, what I have already ſaid is a ſufficient anſwer. For he ſpeaks of a Judges office regularly and uſually, not what he is to doe in caſes extraordinary, and ſuch as is the preſent queſtion. But he that ſaid, *Sicut audit, ita judicat*, would no leſs have ſaid, *Sicut videt, ita judicat*. The ſeeing of his eyes is as ſure a meaſure as the hearing of his ears.

34. 11. As for the words of *Ulpian* I will give no other anſwer, then that *Panormitan* and *Covarruvias* who urge them, and who are concerned to make the moſt of them, doe yet confeſs that they make as much againſt them as for them; and that they ſay true, will appear to any ordinary underſtanding that conſiders them.

12. For although no Judge muſt doe acts of a private authority, yet he may as well uſe his own private knowledge, as he may uſe the private knowledge of the witneſſes; for their knowledge is as private as the Judges, till it be brought into open Court, and when his is brought thither, it is as publick as theirs; but however from the authority to the knowledge to argue is a plain paralogiſm; for the Prince who armed him with publick authority, did not furniſh him with a commiſſion of knowledge, but ſuppoſed that to be induced by other ways.

13. And therefore the Judge may when he hath called witneſſes reject them upon his own certain knowledge, as well as uſe arts of diſcovery, or any other collateral ways to ſecure the innocent. For it may as well be inquired concerning the Judges uſing his knowledge to the infatuating or diſcovering the falſhood of the evil witneſſes as to the rejecting them. For if he muſt abſolutely take all for granted which they ſay, then he muſt uſe no arts to invalidate their teſtimony; but if he may doe that, he may doe the other, and yet the calling in of witneſſes may be to many good purpoſes, and by the colliſion of contraries light may ariſe, and from falſhood alſo truth may be produced like a fair child from a foul mother. And after all, though this queſtion is not to be determined on either ſide by authorities, yet becauſe amongſt the writers of Caſes of Conſcience very many rely much upon the teſtimony of Authors, I think it not amiſs to ſay that this ſenſe of the queſtion which I defend was the ſentence of many eminent Divines and Lawyers, particularly, *Nicolaus Lyra*, *Adrianus*, *Angelus*, *Navarre*, *Hoſtienſis*, *Calderinus*, *Panormitan*, *Martinus*, *Johannes Arboræus*, *Oldendorp*, *Corraſius*, *Leſsius*, *Breſſer* and divers others; and therefore beſides the ſtrength of the reaſons, I walk the more confidently by having ſuch good company.

35. To conclude: All thoſe adviſes of prudence which are given by the adverſe party in this affair as expedients for the Judges to proceed by in ſuch caſes, I am ready to admit if they will ſecure their conſcience and the life of the innocent oppreſſed. But if they will not, but that the Judge muſt give ſentence for Law or for Conſcience, the caſe to me ſeems very clear. God is greater then our Conſcience, but our Conſcience is greater then any thing beſides. *Fiat jus & pereat mundus*, ſaid S. *Auſtin*, *adhæc imagine nè naturæ ve-*

ritas

ritas obumbretur curandum. For images and forms of things, the natural and ſubſtantial truth of things may not be loſt or prejudic'd. Let juſtice be done whatſoever be the event.

Accipere perſonam improbi non eſt bonum, ut pervertas juſtum in judicio. *It is not good to receive the perſon of a wicked man, thereby to overthrow the righteous in his cauſe.* Prov. 18. 5.

RULE 9.

The goodneſs of an object is not made by Conſcience, but is accepted, declared, and publiſhed by it, and made perſonally obligatory.

1. NO object can have its denomination from the judgement of reaſon, ſave onely that from thence it may be ſaid to be *underſtood to be good*, to be *declar'd*, to be *conſented to*; all which ſuppoſes the object to be good, or to be ſo apprehended. Juſt as an emerald is green before the eye perceives it ſo: and if the object were not in it ſelf good, then the reaſon were deceiv'd in conſenting to it, and a deceiver in publiſhing it.

2. This is true in reſpect of the *material*, *fundamental*, and *proper goodneſs* of the object; for this it hath independently of the conſcience: and the rectitude of the conſcience is dependent on this, and conſequent to the perception of it. But yet there is *a formal*, *extrinſecal*, and *relative goodneſs* paſſed upon an object by the conſcience, by whoſe perſwaſion although an evil object doe not become naturally good, yet it becomes perſonally neceſſary; and in the ſame proportion a good object may become evil.

3. The purpoſe of this is to remonſtrate that we muſt rather look to the rule then to the preſent perſwaſion; firſt taking care that our conſcience be truly informed, before it be ſuffered to paſs a ſentence; and it is not enough that our conſcience tels us thus, unleſs God hath told the conſcience. But yet if the conſcience does declare, it ingages us, whether it be right or wrong. But this hath in it ſome variety.

4. 1. The goodneſs of an act depends upon the goodneſs of an object, that is, upon its conformity to a rational nature and the commands of God. For all acts of will and underſtanding are of themſelves indefinite and undetermined till the relation to an object be conſidered, but they become good or bad when they chooſe or refuſe that which is good or bad reſpectively. To will to doe an act of theft is bad, becauſe theft it ſelf is ſo: to be willing to commit an act of adultery is evil, becauſe all adultery is evil: and on the other ſide, to be willing to doe an act of juſtice, is therefore good becauſe juſtice it ſelf is good. And therefore *Ariſtotle* defines juſtice by a habitude or relation to its object. It is *voluntas dandi ſuum cuique*, a will of giving to every one that which is their due. And therefore our conſcience, becauſe it is to receive its *information from the rule* by which every action is made good or bad, and its *motion from the object*, is bound to take in that onely which is really and truly good, and without ſin or error cannot doe otherwiſe.

2. Al-

5. 2. Although conſcience is bound to proceed this way, yet ſometimes the younger takes the elder brother by the heel, or gets out before him, and the act gets before the object by indirect means. For though all things ſhould be thought good becauſe they are good, yet ſome things are made good becauſe they are thought ſo; and the conſcience looking out upon its object finds error dreſs'd up in the ſhape of truth, and takes it in, and adopts it into the portion of truth. And though it can never be made really and naturally good, yet by being ſuppoſed ſo by the conſcience, it is ſometimes accepted ſo by God.

6. 3. Although the rule by which good and bad is meaſured, be in it ſelf perfect, yet it is not always perfectly received by us. *Good* is proportionable to *Reaſon*; and as there is *probabiliter verum*, ſo there is *probabiliter bonum*, a probable good, as well as a probable truth: and in the inqueſt after this, we often ſhew a trick of humanity, even to be pitifully deceived; and although when it is ſo, it is an allay of the good it intends, yet it does not wholly deſtroy it: God in his goodneſs accepting at our hands for good, what we really and innocently ſuppoſe to be ſo. Juſt like the Country fellow that gave a handful of water to his Prince; he thought it a fine thing, and ſo it was accepted. For when the action and the rule are to be made even, if either of them comply and ſtoop, the equality is made. God indeed requires the ſervice of all our faculties, but calls for no exact meaſures of any but the will. For the acts of the will are perfect in their kinde, but our underſtanding is imperfect, therefore *this* may finde an excuſe, but *that* never.

7. 4. Upon this account it is that though the goodneſs or badneſs of an act depends upon the quality of the object *regularly* and *naturally*, yet the acts become *irregularly* or *accidentally* good or bad by the conſcience, becauſe the conſcience changes the object; that is, the act is good by the object *really* good, or ſo *apprehended*. The object always changes or conſtitutes the act, but the conſcience changing the *object immediately*, hath a *mediate influence* upon the act alſo, and denominates it to be ſuch as in the event it proves. But then in what degrees, and to what events this change is made is of more intricate conſideration.

What changes can be made in moral actions by the perſwaſion and force of Conſcience.

8. 1. Whatſoever is abſolutely and indiſpenſably neceſſary to be done, and commanded by God expreſly, cannot be changed by *Conſcience* into an evil, or into that which is unneceſſary. Becauſe in ſuch caſes where the rule is plain, eaſy, and fitted to the conſcience, all ignorance is voluntary, and ſpoils the conſequent act, but never can legitimate it. And the ſame reaſon is for things plainly and expreſly forbidden, as adultery, murder, ſacrilege, and the like; they can never become good by any act of Conſcience. And therefore in ſuch caſes it often happened that God did declare his judgement to be contrary to the opinion which men had of themſelves and of their actions. Somtimes men live contrary to their profeſſion; *they profeſs* the worſhip of God, but *deny him in their hearts*, even when they leaſt think they doe. Thus the Iſraelites having conſtrain'd *Aaron* to make a golden Calf proclaim'd a feaſt, *To morrow is a feaſt unto Jehovah*; but God ſays of them, *They offered ſacrifice to Devils and not to God.* And ſo it was with their children after them, who killed and perſecuted the Apoſtles and ſervants of Jeſus, and thought they did God good

Tit. 1 16.

Deuter. 32. 17.

good ſervice. He that fals down before an idol, and thinks to doe honour to the Lord; or robs a Temple, and thinks it is for Religion, muſt ſtand or fall, not by his own fancy, but by ſentence of God, and the rule of his Law; *Proteſtatio contra factum* is invalid in Law. To ſtrike a mans eye out, and ſay he did it in ſport; to kill his brother, and think it is well done, becauſe done to prevent his ſin, though it may be thought charity by the man, yet it is murder before God.

9. 2. Where the rule is obſcure, or the application full of variety or the duty ſo intricate that the conſcience may inculpably erre, there the object can be changed by conſcience, and the acts adopted into a good or an evil portion by that influence. He that thinks it unlawful to give money to a poor Turk, hath made it to become unlawful to him, though of it ſelf it ſeems to be a pious act. So alſo it is in the uncertain application of a certain propoſition. It is certainly unlawful to commit adultery; but if *Jacob* ſuppoſes he lies with *Rachel*, and ſhe prove to be *Leah*, his conſcience hath not chang'd the rule, but it hath chang'd the object and the act: The object becomes his own by adoption, and the act is regular by the integrity of the will. This is that which is affirm'd by the Apoſtle, *I know and am perſwaded in the Lord Jeſus, that there is nothing unclean of it ſelf, but he that thinketh it is unclean, to him it is unclean.* This inſtance is in a caſe in which they might eaſily be miſtaken, and innocently abuſed by reaſon of the prepoſſeſſion of their mindes by *Moſes* Law; and therefore in ſuch caſes the conſcience rules. They who beleeve themſelves married, may mutually demand and pay their duty: But if they be not married, it is fornication or adultery (as it happens.) But if *Conſcience* ſays they are married, it is not adultery, but an act of duty, becauſe the ſame conſcience that declares for the marriage, obliges alſo to pay their duty, as a matter of neceſſity. *Where ever the underſtanding is wrong, and the will is wholly right, the action is accepted, and the error pardoned.*

Rom. 14. 14. Vide Chryſoſt. in hunc locum. S. Amboroſ. ib. & Theophyl. ibid.

10. 3. When the act is materially evil, the conſcience adopting it into a good portion, that is, beleeving it to be good, does not make a perfect change, but leaves an allay in the ſeveral degrees of its perſwaſion. For it is impoſſible that *a right conſcience* and *a wrong* ſhould have no difference in the effect, eſpecially if there be any thing criminal or faulty in the cauſe of the error. When two men take up arms in a differing cauſe, as ſuppoſe one for his Prince, and the other againſt him; though they be both heartily perſwaded, and act according to Conſcience, yet they doe not equally doe well or ill. The one ſhall be accepted, and it may be, the other pardoned, or excuſed in various degrees. But this which needs a pardon for one thing, is not in the whole conſtitution of it, good for any thing, nor can it be accepted to reward.

11. 4. If the conſcience dictate a thing to be neceſſary, the thing is become neceſſay, and at no hand to be declined. This was it which S. *Paul* ſaid, *He that is circumciſed is a debtor of the whole Law*; meaning, that though Chriſt had broken the yoke of *Moſes*, yet if conſcience did take up one end of it, and bound it upon it ſelf; the other end would be dragg'd after it, and by the act of conſcience become neceſſary. If a man inquires, whether he is bound to ſay his prayers kneeling, or *whether he may doe it ſtanding*, or lying, or leaning; if his conſcience be perſwaded that he *muſt doe* it kneeling, it is neceſſary he ſhould doe ſo, and *he may not* doe it in his bed: Becauſe the Conſcience is a Law-giver, and hath authority over the man, and ought to prevail, when the contrary part is onely, *That they may doe otherwiſe.* For whether this part be

Gal. 5. 3.

 true

true or falſe, the matter is not ſo great, becauſe there is no danger if a man doe not make uſe of a liberty that is juſt: He can let it alone and doe well enough; and therefore to follow the other part which is ſuppoſed neceſſary, muſt needs be his ſafeſt way.

But if the Queſtion be, whether it be *neceſſary* to keep a Holy day, or *neceſſary* to let it alone; there if the Conſcience determine that for neceſſary to be done, which is neceſſary to be let alone, the man is indeed bound to follow his conſcience, but he cannot eſcape a ſin. For conſcience makes no *eſſential alterations* in the *thing*, though it makes *perſonal obligations* to the *man*; and if it be an evil ſuperſtition to keep a holy day, it cannot be made lawful, becauſe the conſcience miſtaking calls it neceſſary. And if this were otherwiſe, it were not a pin matter what a man thought, for his thinking ſo becomes his law, and every man may doe what is right in his own eyes. And therefore God was pleaſed expreſly to declare it, that if a Prophet did miſlead the people, both he and they ſhould periſh; and our bleſſed Saviour ſignified the ſame thing in a Parabolical expreſſion, *If the blinde lead the blinde, they both fall into the ditch.* But in this caſe there is a fault ſomewhere, and the man ſmarts under the *Tyranny*, not the *Empire* of his Conſcience; for Conſcience can have no proper authority againſt the Law of God. In this caſe that which the conſcience *falſly* calls *neceſſary*, becomes *ſo relatively* and *perſonally* (that is, he thinks ſo, and cannot innocently goe in the right way, ſo long as his guide conducts him in the wrong, and yet cannot innocently follow his guide becauſe ſhe does abuſe him) but in it ſelf, or in the Divine acceptation, it onely paſſes for a *bonum*, ſomething there is in it that is good, and that God may regard; there is a *præparatio animi*, a willingneſs to obey.

12. 5. If the Conſcience being miſtaken in a queſtion, whether an action *be good or no*, calls that *good* which is nothing but *indifferent*; the Conſcience alters it not, it is ſtill but *lawful*; but neither *neceſſary* nor *good*, but *relatively* and *collaterally*: The perſon may be pitied, and have a *gift* given him in acknowledgement, but the thing it ſelf cannot expect it. When the Lords of the *Philiſtins*, that they might deprecate the Divine judgements offered to God golden Mice and Emerods, the thing it ſelf was not at all agreeable to the way by which God choſe to be worſhipped; but their conſcience told them it was good, it therefore became lawful to them, but not good in it ſelf; and God who is the Father of mankinde ſaw their heart, and that they meant it for good, and he was pleaſed to take it ſo. But the Conſcience (I ſay) cannot make it good. For to be *good* or *bad* is wholly another conſideration then to be *neceſſary* or not *neceſſary*. This diſtinction is relative to perſons, and therefore can be made by Conſcience in the ſenſe above allowed. But *good* and *bad* is an abſtract conſideration, and relates to the materiality of the object, and is before the act of Conſcience, not after.

13. 6. If the Conſcience being miſtaken calls a thing *lawful*, which is not ſo in the Rule, or Law of God, there the Conſcience neither makes an alteration in the thing, nor paſſes an obligation upon the perſon. *Eleonora de Ferrante* was married to a Spaniſh Gentleman, who firſt uſed her ill, then left her worſe. After ſome years ſhe is courted by *Andrea Philippi* her Countriman, to marry him. She inquires whether ſhe may or no, and is told by ſome whom ſhe ought not eaſily to have beleeved, that ſhe may; and ſo ſhe does. But being told by her Confeſſor of her ſin and ſhame, ſhe pretends that ſhe did it *bono animo*, her conſcience was perſwaded ſhe might doe it, and therefore hopes to be

be excuſed or pardoned. He anſwers her; That her conſcience could not make that lawful which God had forbidden, and therefore ſhe ought not to pretend conſcience; for though her conſcience did ſay it was lawful, ſhe was not bound to follow it; becauſe though ſhe muſt doe nothing that is *unlawful*, yet ſhe is not tied to doe every thing that is lawful: and though her conſcience can give her *a Law*, yet it cannot give her *a Privilege*. She is bound to doe what her conſcience ſays is neceſſary, though it be deceived, and if ſhe does not, ſhe ſins againſt her conſcience, which can never be permitted or excuſed. But if her conſcience tells her onely *it is lawful* ſo to doe; if ſhe does not doe the thing which her conſcience permits, ſhe offends it not, becauſe though it *allows*, yet it does not *command* it. If therefore ſhe does it, and there be an error in the conſcience, the ſin is as great as the error, great as the matter it ſelf; as if the fact *materially* be adultery, it is alſo *morally* ſo, and the perſwaſion of the conſcience does not excuſe it from being ſuch. The reaſon is plain; For ſince the conſcience when ſhe *allows* does not *command*, if the perſon chooſes that thing which materially is a ſin, it is in purſuance of her own deſires, not in obedience to her conſcience. It is Luſt more then Conſcience. * But yet whereas ſhe ſays ſhe hopes for pardon in this caſe, there is no queſtion but ſhe may. For ſhe ſinn'd as S. *Paul* did in perſecuting the Church; he did it ignorantly and ſo did ſhe. Here onely was the difference; he was nearer to pardon then ſhe; becauſe he thought he was bound to doe ſo, and therefore could not reſiſt his conſcience ſo perſwaded: ſhe onely thought *ſhe might doe it*, and therefore might have choſen. The conſcience hath power in *obligations* and *neceſsities*, but not ſo much, nor ſo often in *permiſsions*.

CHAP. III.

Of the Confident, or Erroneous Conſcience.

RULE I.

An Erroneous Conſcience commands us to doe what we ought to omit; or to omit what we ought to doe, or to doe it otherwiſe then we ſhould.

1. IN this there is no other difficulty but in the laſt clauſe. For when our bleſſed Lord had propounded an inſtance of perfection, he that not onely obeyes the counſel, but thinks it to be a Commandement, and neceſſary to be done in all times and perſons, enters into an error at the gate of Zeal, and at the ſame place lets out the excellency of his love. Chriſt hath recommended renunciation of the world, ſpiritual caſtration for the kingdome of God, dying for our Enemies, &c. he that in zeal, with charity and prudence follows theſe advices will finde his reward ſwell high; but he whoſe zealous deſire to grow towards perfection, ſhall ſo determine his practice, as that by degrees he ſhall

think theſe counſels individually neceſſary, hath abuſed his conſcience, laid a ſnare for others, put fetters upon Chriſtian liberty, and is paſſed into that ſtate of doing it, that though he entred firſt by love, he is gone beyond it, and changed it into fear, and ſcruple, and ſuperſtition: he is at laſt got ſo farre that he would not doe it at all if he durſt doe otherwiſe; and he dares not, becauſe his love was zealous, and his zeal was imprudent, and his imprudence was a furious ſnare, and the paſſion of a mighty folly.

2. But an erroneous conſcience is generally abuſed by two manners of proceeding. 1. By a true application of a falſe propoſition: Thus,

Whatſoever is done againſt my Conſcience is a ſin.
But to allow of Magiſtrates is againſt my Conſcience.
Therefore it is certainly a ſin that they be allowed.

The firſt propoſition is not true, unleſs it be underſtood of him onely, againſt whoſe conſcience it is done, and then it is always true, either *abſolutely*, or *relatively*, *originally*, or *accidentally*. But if it be intended to conclude, that becauſe it is againſt my conſcience to allow them, therefore it is ſimply unlawful, or unlawful to every one elſe, this is a *Paralogiſm*, and makes an erring conſcience. Or ſecondly, the conſcience is abuſed, and made erroneous by a falſe application of a true propoſition.

Whatſoever is forbidden by God is a ſin.
But every oath is forbidden by God.
Therefore every oath is a ſin.

Every thing here is true but the concluſion. The ſecond propoſition is true, but not *univerſally*. For S. *James* ſaying, *Swear not at all*, forbids all kinds of
James 5. oaths materially: that is, in that ſenſe in which any is forbidden, in the ſame all are forbidden. Without juſt authority and occaſion it is not lawful to ſwear *By God*, therefore without ſuch authority, neither is it lawful to ſwear *by a creature*. So that his words mean thus; Except in ſuch a caſe *ſwear not at all*, that is, not with any kinde of oath; for unleſs that caſe occurres to warrant it, this or that oath is criminal as well as any: that is, it is no excuſe in common talk to ſay, it was but a ſlight oath, for you muſt not ſwear at all, *viz.* in ſuch circumſtances.

The cauſes of error, are

3. 1. *Ignorance*, either of *right* or *fact*. For no other diviſion of ignorance can concern the relation of an erring conſcience. For although a man is otherwiſe concerned in ignorance if it be *vincible*, otherwiſe if it be *invincible*, yet his will is concerned in that *directly*, and his conſcience but *collaterally* and *indirectly*.

4. 2. *Fear* whether it be puſillanimous, or ſuperſtitious, that is, whether it begin upon *religion*, or upon *natural imbecillity*, they alike abuſe the conſcience. Ignorance makes it erroneous, but takes not away its confidence, but oftentimes increaſes it: fear makes it erroneous too, and though it begins in doubting, it ends in a ſilly choice, which grows to as much confidence as it can, ſo much as to eſtabliſh the error.

5. 3. To this uſually is reduc'd *a moroſe humility and abjection of minde*, which becauſe it looks *pitifully* and *ſimply*, ſome men in charity think it *laudable*: ſo
Part. 1. decret. diſt. 6. c. 4. *Antoninus* particularly; and it is the ſame that S. *Gregory* recommends, *Bonarum quippe mentium eſt, ibi etiam aliquo modo culpas ſuas agnoſcere, ubi culpa non eſt.* It is the ſign of a good minde to accuſe themſelves of a fault when there is

is none. Which if it relates to the preſent affairs is dangerous and illuſive. For if the queſtion be in a Caſe of conſcience, and the conſcience be determined upon its proper grounds innocently and right, there to acknowledge a fault in the conſcience or determination, is to make the Rule it ſelf crooked, to introduce eternal ſcruples and irreſolution, to diſturb our own peace, and a device to ſnatch at a reward by thruſting it from us, and to think to pleaſe God by telling of a lie. But if the ſaying relates to all the whole action in all its conjugation of circumſtances and appendages, then it may conſiſt with *humility* and *prudence* both, to ſuſpect a fault where there is none; to fear leſt we have erred by *exceſs* of degrees in *paſsion*, or by *remiſneſs* and ſlackneſs of *action*, or by *obliquity* of *intention*, or *intertexture* of ſome *undecency*, or *wearineſs*, or *ſenſuality*, or *complacency*, and *phantaſtick deliciouſneſs*, or ſomething ſecret, and we know not what: But even in this caſe, we may beſt follow S. *Pauls* expedient and manner of expreſſion, *Nihil mihi conſcius ſum, I am guilty of nothing*, my heart ſmites me not, *yet I am not hereby juſtified, for God is greater then my conſcience:* I may for ought I know have done ſomething amiſs, or my duty not well, but as I cannot accuſe my ſelf, ſo neither can I acquit my ſelf, but referre my ſelf to Gods equal and merciful ſentence. What goes beyond this may abuſe the conſcience, not onely by a ſecret ſcruple, but by an evil principle and falſe concluſions: and this, although it looks like modeſty, and ſeems contrary to confidence, and therefore cannot be ſo well reduc'd to this kinde of conſcience, but to the *doubting*, or the *ſcrupulous*; yet I have choſen to place it here, for the reaſon above mentioned. * It looks in at the door with a trembling eye, but being thruſt in, it becomes bold. It is like a fire-ſtick which in the hand of a child being gently mov'd, gives a volatile and unfixed light, but being more ſtrongly turn'd about by a ſwift circular motion, it becomes a conſtant wheel of fire: or like a baſhful ſinner ſneaking to his luſt, till he be diſcovered, and then he is impudent and hardned. And there are very many wiſe men who tremble in their determinations, and not being able clearly to reſolve, fall upon one part by chance, or intereſt, or paſſion, and then they are forc'd for their peace ſake to put on an accidental hardneſs, and a voluntary, not a natural confidence. But this confidence is commonly peeviſh, impatient, and proud, hating all contradiction and contradictors; becauſe it was onely an art to ſleep, and to avoid the firſt trouble, and therefore hates every thing that brings them forth from their phantaſtick ſecurities.

6. Other cauſes of an erroneous conſcience here uſually are aſſigned but inartificially I ſuppoſe, and not of preſent concernment or relation. Such as are the *ſubtraction of the Divine aids*, Gods leaving a man, and giving him over εἰς νοῦν ἀδόκιμον, and to beleeve a lie; *perplexity*, or *irreſolution*, ſelf-love, pride, prejudice, and paſſion; *perit enim omne judicium cùm res tranſierit in affectum, quia affectus obſcurat intellectum nè rectè judicet*, ſaid *Seneca*. When affection ſits Judge, there reaſon and truth are ſeldome admitted to plead, or if they are, yet they cannot prevail.

Impedit ira animum nè poſsit cernere verum.

But theſe are no otherwiſe cauſes of an erroneous conſcience, but as they are cauſes of ignorance, or deception; for in this caſe I reckon them to be but one; an error being nothing elſe but an ignorance of truth, which whether it be culpable or inculpable, and at what gate it enters, is of another diſquiſition, and ſhall be reſerved to its proper place.

RULE 2.

An erroneous Conſcience binds us to obedience, but not ſo as a right Conſcience does.

1. THE object can move the will no otherwiſe then as it is propounded by the underſtanding. If it be propounded as evil, the will that chooſes it under that formality is criminal and malicious. If it be propounded as good, the will that rejects it ſo propounded deſpiſes good; for it is ſo to the will, if it be ſo to the underſtanding, which is the Judge and the immediate rule of all humane actions. And he that does a good thing while he beleeves it to be evil, does chooſe the evil, and refuſe the good; for he does therefore *becauſe* he beleeves it evil, or *though* he thinks it ſo, and therefore is equally diſpoſed to chooſe a real evil; for that this is not ſo, is but extrinſecal and accidental to his choice.

2. If this were not thus, but that it were poſſible to be otherwiſe, then we might ſuppoſe that a man might doe a thing reaſonably, for which he hath no reaſon; and an humane action without the natural proceſs of humanity, that is, to chooſe by chance, and unnaturally, to chooſe for a reaſon that he hath not, and a good that appears not, which is like beholding of a thing that he ſees not. The Jew thinks it is his duty to be circumciſed, and to keep the Sabbath. While in this error he is confident, by what argument can he be mov'd to omit it? If you give him reaſons, you ſeek to cure his error, and to alter his perſwaſion; but while this perſwaſion is not altered, how can he be mov'd to omit it? If you give him no reaſons, you deſire him to omit it becauſe he thinks he ought not, and to doe an action becauſe it ſeems unreaſonable, and follow your opinion becauſe he beleeves it falſe; that is, to obey you becauſe he ought not, which is a way not poſſible to prevail with a wiſe man, or with a fool; how it may work with any ſort of madneſs, I know not.

3. But againſt this Rule, ſome contend earneſtly, in particular *Guilielmus Pariſienſis*, and ſome that follow him, ſaying it is impoſſible that an erring or a lying conſcience ſhould oblige a man to follow it. The thing hath great influence upon our whole life, and therefore is worth a ſtrict ſurvey.

Queſt.

WHether *a falſe and an abuſed Conſcience can oblige us to purſue the error?*

That it cannot theſe reaſons are or may be pretended.

1. * Becauſe it ſeems to be abſurd to ſay, that when the error it ſelf is not a ſin at all, or but a little one, that it can be a great ſin to follow a mans own humour againſt that error; If a man ſhould doe according to his error, it could at moſt be but a ſmall ſin, and therefore to goe againſt it cannot be greater. For the error can oblige no higher, then its own nature, as rivers cannot ariſe above their fountains.

4. 2. But it is a more material conſideration; If an erring conſcience obliges us to follow it, then ſome men are bound to perſecute the Church, and the high Prieſts ſinned not in crucifying Chriſt; and the zealots of the Jews did well in afflicting the Apoſtles and Diſciples of Jeſus, becauſe they did it ignorantly, and by the dictate of an erring Conſcience; and S. *Paul* ſays of himſelf before his converſion, *I my ſelf thought I ought to doe many things againſt the Name of the Lord Jeſus*; and yet he ſinned in following his erring

conſci-

conscience; and therefore certainly could not be bound to it: In pursuance of which,

5. 3. S. *Bernard* argues thus; To follow truth is always good; but if by the conscience we can be bound to follow error, and that in that case it is not good to follow truth; that is, If a good may become evil by the sentence of an erring conscience, and so great an evil as it supposes it to be, then by the same reason that which is evil, may by the like sentence become good, and so great a good as it is supposed; and then may a man be chast for committing adultery, and charitable for committing murder, and religious for worshipping idols, and pious to his Parents in denying to relieve them from the *Corban*; all which consequents being intolerable, the antecedent which infers them, must needs be false.

6. 4. It is true indeed, the conscience is our Guide and our Lawgiver, our Judge and our Rule; but it is not our Lord, nor in the present case is it an authentick record, but a ψευδεπίγραφον, a heap of lies and errors, and therefore cannot be a true guide, and we are not tied to follow any leader to hell. Better it is in this case to follow the conscience of a wiser and a better man then my self, it being more reasonable that we be tied to follow his right, then our own wrong conscience.

7. 5. For if still we were bound to follow our abused conscience, then we were bound to impossibilities, for then either we were not at all bound to follow God, or if we were, and yet bound to follow our conscience against God, we were bound at the same time to doe, and not to doe the same thing; *to serve two Masters*, which our blessed Saviour said, *No man can doe.*

8. 6. But therefore in this case God must be obeyed and not Man; it being impious to say that the law of our conscience should derogate from, or wholly evacuate the Law of God, by which alone we ought to be governed. For if this law of conscience takes away the obligation of the Divine Law, or if the Divine Law take away the obligation of conscience when it erres, then they must cease respectively; and the event will be this, that as long as Gods Law binds us (which is for ever) the law of an erring conscience cannot binde us.

9. 7. And there are in this, great proportions of reason. For if the will be bound to lay down all its rods and axes, all the ensigns of Empire at the foot of the throne of God, doing or refusing by the command of God against its own inclination, it will not be imagined that the conscience, that is, the practical understanding hath any such privilege indulged to it, that it can be exempt from the jurisdiction of God, or that it can oblige in defiance of his Laws.

10. 8. For it is certain, conscience is Gods creature, bound to its Lord and Maker by all the rights of duty and perfect subordination, and therefore cannot prejudice the right and power of its Lord; and no wise man obeys the orders of a Magistrate against the expres Law of his King; or the orders of a Captain against the command of his General; and therefore neither of conscience which is Gods messenger, against the purpose of the message with which God intrusted it. However, it is better to obey God then man; to follow the Law of God then to goe against it; to doe that which we should, rather then that which we should not.

11. 9. And there can be no more necessity upon us to follow our conscience teaching us, then our conscience binding us; and yet if a contract that is vicious be made, or an oath that is unlawful be uttered, the obligations of conscience

ence ceaſe, becauſe they are againſt the Law of God; and how then can conſcience againſt this Law of God in any ſenſe paſs an obligation? But this rather, that as we are bound not to commit a crime, ſo not to follow an error and a lie.

12. 10. For it is impoſſible that our opinion, or falſly perſwaded conſcience ſhould make any alteration in the thing; If it was evil in it ſelf, it is ſo ſtill; and my thinking that Mercury is not poyſon, nor Hellebore purgative, cannot make an Antidote and deletery againſt them, if I have upon that confidence taken them into my ſtomach; and the Sun is bigger then the Earth, though I fooliſhly think it no wider then a Buſhel. And therefore in ſuch caſes the conſcience can have no power, and can binde us to nothing but to lay our error down: Becauſe as to him that is in error, it were madneſs to bid him erre more; ſo to him that hath an erring conſcience, it were equally evil to bid him purſue, and actuate and conſummate his error; which yet he were bound to doe, if an erring conſcience could binde him.

13. 11. Laſtly if an erring conſcience binds us to obedience, it either binds us by its own independent, ingenite power, or by a power deriv'd from God. If by a power deriv'd from God, then God commands us to beleeve a lie, to commit a ſin, to run after falſe fires and illuſions, which to affirm, ſeems to be blaſphemy; but if it binds us by its own power, then our conſcience can make Gods Law to become unlawful to us, and we ſhall be ſtronger then God, and a mans ſelf becomes his own rule; and he that is deceiv'd by a falſe opinion is a Lawgiver to himſelf, and error ſhall be the meaſure of good and evil.

14. Theſe are the arguments which are uſed by ſeveral perſons reſpectively in verification of the opinion of *Pariſienſis*, which I have not onely heap'd here together, but added ſome and improved the reſt, that by the colliſion of theſe with their anſwers, the truth might be made more uſeful and evident; and divers collateral things incident to the main queſtion might be ſpoken of; and thoſe arguments remain valid which I brought for the affirmative in the firſt and ſecond paragraphs of this Rule. To the firſt therefore I anſwer:

15. 1. That it is not *the error* that binds us to follow it, but the *conſcience in error*; and therefore although the error can have no force greater then its own nature and proper *energy*, yet our conſcience can binde beyond the force of error. As if a General commands a Souldier to turn to the right hand under pain of death; if he miſtaking turn to the left, the event is greater then can be effected by the intentional relations of right or left hand, but depends upon the reaſon, and the command, the power and empire of the General.

16. 2. To the ſecond, I anſwer, That it follows not, becauſe the erring conſcience binds, therefore the obedience is not a ſin. For ſuch is or may be the infelicity of an abuſed conſcience, that if it goes forward, it enters into folly, if it reſiſts, it enters into madneſs, if it flies, it daſhes its head againſt a wall, or falls from a rock, if it flies not, it is torn in peeces by a Bear; and the very inſtances make it clear; the Rulers of the Jews and S. *Paul* were both called to repent of that which they did in obedience to their erring conſcience, which cannot legitimate impiety, but onely make the one or the other inſtance to be unavoidable.

17. 3. To that which S. *Bernard* objects, the anſwer is eaſy upon another account; for conſcience may make a good thing evil to it, becauſe beſides the good-

goodneſs of the object to make an action lawful there is required the faith and perſwaſion of the Agent; and if this be wanting, as it is in an erring conſcience that beleeves not the goodneſs of it, the action is evil, by reaſon of the deſtitution of an integral part. For, *Bonum ex integra cauſa, malum ex qualibet particulari*, and by the ſame reaſon, conſcience cannot make an evil thing good, becauſe beſides the perſwaſion of conſcience, there is required the goodneſs of the object, which if it be wanting, one ingredient cannot make it good, all muſt enter into the conſtitution of good, though the want of one is enough to ſpoil it.

18. 4. To the fourth I anſwer, That becauſe the conſcience is in error, and the principle within it is a ψευδεπίγραφον, a falſe record, therefore it is true, that we are not abſolutely tied to follow its conduct, but we are tied to lay the error aſide, that we may follow it in ſtreight ways; but in the preſent conſtitution of affairs it is miſerable, and becauſe we muſt follow our leader, that is, all that can goe before us; we doe goe to hell, or to miſchief, not that we are by God bound to do *this*, but only to doe *that*; and it is by our own fault that we are bound to fall into an evil portion, God binds us to follow our conſcience, we ſpoil it by ſome folly or other, and then we follow it; the evil appendage is our own, the Law by which God bound us was holy. Nature requires of us to drink at our meals: But if we have corrupted all our beaurage, we muſt drink unwholſome draughts, but yet nature did not binde us to this misfortune.

19. 5. And therefore the anſwer to the next objection provides us of a remedy againſt the former. We are bound *abſolutely* to follow the Law of God; but we are bound to follow the contrary law of conſcience erring, *conditionally* and *by accident*, that is, becauſe *we* have made our rule *crooked* which *God* had made *ſtreight*. For to be *abſolutely* and *irreſpectively* bound to follow *God*, and yet *reſpectively* and *by accident* to be bound to follow *the contrary conſcience*, are not incompoſſibilities, or the parts of a contradiction, becauſe they are not *ad idem*, not in the ſame regards. But then, ſince it is impoſſible that both theſe ſhould be actually followed, therefore God does not command us to follow our conſcience and not to follow it at the ſame time, but to follow our conſcience, and to lay aſide the error, and then both parts are reconcil'd; for God and the conſcience are but *accidentally* oppoſed, and God commanding us to follow our conſcience; took care that at the ſame time we ſhould follow God too, and therefore God taught our conſcience, but when we get other teachers, we make it impoſſible to obey God. Let us ſubmit our conſcience to God, that is, lay aſide our error, and then *God* and *Conſcience* are *not two* Maſters, *but one*, that is, God; and Conſcience is his Deputy and ſubordinate. And in order to this, it is not ill adviſed in the fourth objection, to follow the right conſcience of a wiſer man; to doe ſo is a good expedient for the laying down our error; but it is not directly obligatory, ſo long as the error is confident; for I muſt not follow a wiſer man in his right, if I beleeve him to be in the *wrong*, and if I beleeve him to be in the *right*, and he really be ſo, then I have laid aſide my error, and indeed to doe this is our duty; but this cannot be done till the error be diſcovered, till then I muſt follow my own conſcience, not the conſcience of another man.

20. 6. To the ſixth I anſwer, That the law of Conſcience cannot derogate from the Law of God, when they are placed in the eye of reaſon over againſt each other; that is, when the Conſcience ſees the Law of God, no law, no perſwa-

perſwaſion, no humor, no opinion can derogate from it. But an *erring confident conſcience* beleeves that it follows God when it does not. So that the law of God hath here a double effect. The Law of God apprehended by the Conſcience binds him to action: But the Law of God real and proper binds the man to lay aſide his error. For he that goes againſt the matter and the inſtance of the Law of God, does yet at the ſame time obey the ſanction and authority, becauſe he proceeds to action in obedience to, and in reverence of the Law of God. The wife of *Amphitruo* was kinde to her lord, when ſhe entertain'd *Jupiter* in his ſemblance; and for *Soſia*'s ſake *Mercury* was made much of: and becauſe the error is dreſs'd like truth, for truths ſake we hugge and entertain the error. So here. The Law of God is not deſpiſed, much leſs evacuated by following the dictate of Conſcience, becauſe it is for the ſake of Gods Law that this conſcience is followed. And therefore ſince by accident they are made oppoſite; the event of it cannot be that one muſt ceaſe, for both may and muſt ſtand, but nothing muſt ceaſe but the error.

21. 7. And therefore although the will muſt ceaſe from its own pleaſure, when Gods will is known to be clear againſt it, yet the underſtanding muſt not ceaſe from that which it ſuppoſes to be the will of God, till the error be diſcovered, but when it is, then it muſt as much ceaſe from its own ways as the will muſt, for every underſtanding as well as every proud will, muſt be ſubmitted to the obedience of Jeſus.

22. 8. For Conſcience being Gods creature, and his ſubordinate, cannot poſſibly prejudice the rights of God, for as ſoon as Gods right appears, and his Laws are read, conſcience doth and muſt obey; but this hinders not but that conſcience muſt be heard when ſhe pretends the Law of God for her warrant, ſo long as it is not known but that ſhe ſays true.

23. 9. For it is in this as it is in contracts and oaths, ſo long as they ſeem lawful they muſt be obſerved, and muſt not be reſcinded until it be diſcovered that they are againſt the Law of God, and ſo it is with the dictates of an erring conſcience.

24. Cha. 2. Rule 9. 10. And the reaſon is plain, becauſe conſcience does not make a real change in extreme objects (as I have formerly diſcourſed) the things are good or bad by their proportions to Gods Law, and remain ſo, whatever the conſcience thinks: But yet they put on vizors and ſhapes, and introduce accidental obligations by error. Indeed the error brings in no *direct obligation* but that it be diſcovered and laid down: but ſo neither can it hinder but that Conſcience ſhall ſtill retain the power that God hath given it *directly* and *principally*; that is, that it be the Mans rule and guide. For the fallacy that runs thorough all the objections is this, that the *Erring Conſcience* is in its obligation conſidered as *erring*. Now it does not binde, as *Erring*, but as *Conſcience*; that is, not by its *Error*, but by its *Nature*, and the power of God, as being the reporter and record of his commands. Againſt which, he that bids our conſcience to proceed indeed gives ill counſel. He that counſels a man to follow his erring conſcience, invites him to folly; he tells him he is in error, and bids him not lay it down. But he that adviſes him to follow his conſcience, though it happens in the truth of things that his conſcience be in error, meddles not at all in the countenancing the error, but in the power of conſcience.

11. For

25. 11. For all the obligation which our conſcience paſſes on us is derivative from God, and God commands us to follow our conſcience, but yet he commands us not to ſin; becauſe his commanding us to follow our conſcience ſuppoſes our conſcience inſtructed by the word of God and right reaſon, and God had appointed ſufficient means it ſhould be; but that conſcience offers a ſin to the obedience is wholly the mans fault, and beſides the intention of God. God hath not made us to ſin, but hath committed us to the conduct of Conſcience, which by prevaricating its inſtructions hath betrayed us.

26. By this it appears what manner of obligation is paſs'd upon us by an erring Conſcience; the Conſcience always hath the ſame commiſſion as being the ſame faculty, the ſame guide: but becauſe it ſelf is bound to the Laws of God and right reaſon, ſo farre as it follows them, ſo farre it binds. But becauſe when it is in error, it alſo pretends them, by them it ſtill binds, till the illuſion be diſcovered. *Durandus* expreſſed this by a diſtinction of words, in which himſelf onely made the difference. *Ligat, ſed non obligat.* So he. That is, it hath not the ſame power that is in a right conſcience. But it binds us ſo that we cannot proceed to good. *A right Conſcience* directly and finally binds us to the action it ſelf: An *erring Conſcience* cannot doe that, becauſe the action it offers is criminal, but it makes us take that in ſtead of what it ought to binde us to: That is, it hath the ſame authority, but an evil exerciſe of it; *The formal obligation* is the ſame, but when it comes to be inſtanc'd, it binds us to that in which it hath no power. For though it hath power over us, yet it hath no direct power in that particular matter.

27. *Cordubenſis* and *Vaſquez* contradict this expreſſion of *Durandus*, affirming that an erring conſcience does *ligare & obligare*; I cannot well tranſlate the words into a diſtinction, but their meaning is this, that we are not bound poſitively to follow the error, but yet ſo that we muſt not doe the contrary. Which indeed is the ſame thing; and they going to reprove *Durandus* his diſtinction that hath no difference, they doe it by a contradiction that hath in it no oppoſition. For to ſay that an erring conſcience does ſo binde us that we muſt not contradict it, is to ſay that it poſitively binds us to follow it. For if it commands us to follow it, and we muſt not goe againſt that command, is it not notorious and evident that we muſt poſitively follow it? But for the eſtabliſhing the meaſures of obedience in the preſent caſe, theſe following rules are the beſt proportions.

The meaſures of obedience due to an erring Conſcience.

28. 1. If an erring conſcience commands a thing that is of it ſelf indifferent, we are bound to follow it, and we may doe it without ſin. Becauſe if it be indifferent, it is therefore lawful, and it cannot ceaſe in it ſelf to be lawful, by being ſuppoſed to be neceſſary. Indeed if a Governour commands us to doe a thing indifferent, and ſays it is neceſſary, we may not doe it under that compliance; that is, we may not betray our Chriſtian liberty, and accept that as ſimply neceſſary which Chriſt hath left under liberty. We muſt doe the thing, but not own the neceſſity. But if an erring conſcience bid us doe an *indifferent*, and repreſent it as *a neceſſary action*, though it may be a ſin to beleeve it neceſſary, yet it is no ſin to doe the action. For nothing that ſupervenes can alter the nature of the thing, and a new perſonal neceſſity introduc'd by an erring conſcience, by making it ſeem neceſſary to him, changes it not from being

being lawful in it ſelf. But then it inferres this alſo, that as it may be done without ſin, ſo without a ſin it cannot be left undone: Becauſe the error hath made it *perſonally neceſſary*, and the truth of God hath made it *lawful really*.

29. 2. If an erring conſcience dictate a thing to *be good* which is *not good*, not to follow that dictate, and not to doe that thing is no ſin. Becauſe every good is not neceſſary, and it may be good or ſeem ſo, and yet to omit it in certain circumſtances, may be equally good or better.

30. 3. If an erring conſcience affirm that *which is good*, or which is *indifferent*, to be *evil and vicious*; as if it ſays, it is a ſin to ſpit upon the pavement of a Church, or that it is ſuperſtition to ſerve the poor in an Hoſpital, it is no ſin to omit that indifferent or that commendable action; becauſe here is no command of God to countermand the reſolution of conſcience, and therefore the error may become a ſnare and a hindrance, but no direct cauſe of ſin; becauſe ſuch actions in themſelves not being neceſſary, it cannot be criminal upon a leſs reaſon to omit them. * But upon the ſame account it is a ſin to do them, becauſe they are not of faith, and the conſcience being perſwaded againſt them, they are ſins. For any deficiency of a neceſſary ingredient makes a ſin.

31. 4. If an erring conſcience ſay that ſuch an action is *lawful onely*, when of it ſelf it is *good and laudable*, we ſin not if we doe it, or if we doe it not. For in this caſe neither is there any *direct obligation* from *God*, nor any *indirect obligation* from *Conſcience*, and therefore the man is wholly permitted to his liberty: although it may be a pious action to pray kneeling on the ground with bare knees, or proſtrate on our faces, yet if conſcience ſays it is in no ſenſe *laudable*, but that it is *lawful onely*, we may ſafely doe it; but then there is no other effect of ſuch an action, then there is of ſcratching a mans head with one finger, and it cannot be commendable in him to doe an action in which he beleeves there is no worthineſs.

32. 5. If an erring conſcience commands what is *ſimply evil*, or forbids to doe that which is *abſolutely commanded*, the man ſins whether he obeys, or obeys not. In one caſe he ſins againſt his *Rule*, and in the other againſt his *Guide*: and any one miſcarriage is enough to introduce a ſin. But this will be the matter of the next Rule. The uſe of theſe Rules is not at all effective upon erring conſciences, while the error remains: for the advices ſuppoſing the error are not applicable to them who will not ſuppoſe themſelves in error. But they are applicable to conſciences recovered from their error, and are uſeful in the conduct of their repentance, becauſe they deſcribe the reſpective meaſures of ſin and innocence, and what obligations of ſorrow and amends are left behinde when the error is gone.

To theſe may be added thoſe Rules which I have already given, concerning the changes which can be made in moral actions, by the perſwaſion and force of Conſcience, *Chap.* 2. *Rule* 9.

RULE

RULE 3.

A Conſcience erring vincibly or culpably is an unavoidable cauſe of ſin, whether it be reſiſted, or complied with.

1. WHEN the error proceeds of malice or negligence, the man is guilty according to the venome of the ingredient; there is a ſin in the principle, and this leads to an action materially evil. He that makes aſſemblies againſt his Prelate, and thinks he may lawfully doe it, does an action for which by the Laws he is puniſhable; but to God he is to anſwer beſides the action, for the ſin that led him to that error.

Queſt.

2. BUT if it be inquired, whether that alſo be a ſin which is an obedience to his Conſcience, that is, whether the *inſtance of the action* be a ſin, beſide the *malice of the principle*, and ſo every ſuch action become a double ſin? I anſwer, that it is according as the inſtance is.

3. 1. If it be *againſt a prime principle*, in which we are naturally, or any way greatly inſtructed, then the error is culpable in that manner that it remains *voluntary* all the way; and then not only the *introduction* or firſt principle, but the effect alſo is a ſin. The man hath onely put a blinde before his eyes, and in every reflex action it is diſcovered, and he knows it habitually all the way. * And therefore in this caſe the conſcience ought not to be obeyed. For the *Conſcience* is but *imperfect* and *equivocal*, *violent* and *artificial*. It is perſwaded in the *act*, and convinced of the evil in the *habit* or *reflex act*, and is no otherwiſe deceived, then a man is blinde that wears a hood upon his eye.

Caſtropal. tom. 1. diſ. 1. punct. 6. n. 3.

4. 2. If the Conſcience be poſſeſſed with a damnable error, and in a great matter, and this poſſeſſion is a *dereliction* and a puniſhment from God for other crimes, it is no matter whether we call the conſequent action a ſin or no. For the man is in a ſtate of reprobation, and the whole order of things and actions in that ſtate are criminal formally or equivalently. His prayers are an abomination; and if ſo, then the actions that are materially evil, are much worſe, and in eſtimation, are proſecutions of the ſtate of ſin. Of this ſort are they that are given over to beleeve a lye; all the conſequent actions are ſins, juſt as the envies and blaſphemies of damned people are ſins, or as the acts of Devils are imputed: they are conſigned to death, and all the conſequent actions are ſymbolical; and it will be always ſo, unleſs they can return to a ſtate of repentance.

5. 3. If the Conſcience be abuſed in a *deduction*, *conſequence*, or leſs certain propoſition, by evil arts and prejudice, by intereſt and partiality, there is ſo much evil in the whole determination, as there was in the introducing cauſe of the error, and no more. For if the action conſequent to the perſwaſion were alſo a ſin, then it ought not to be done; but becauſe in this caſe the conſcience ought to be obeyed, though in the whole affair there is a ſin, and it is unavoidable, yet the ſin is antecedent to the action and determination, but no proper appendage or qualification of it. And ſince the object in the preſent caſe tranſmits honeſty and equity into the action, not according to what it is in the thing, but according to what it is in reaſon, it muſt needs be that we are

obliged according to what we finde it to be in Conſcience. For in this caſe we know not what it *is in it ſelf*, and therefore by it we cannot be guided to chooſe or to refuſe; but becauſe we muſt be guided by ſomething, it muſt be wholly by *opinion* and *conſcience*.

6. 4. If the Conſcience be weakly and innocently miſguided, there is no ſin either in the error, or in the conſequent action. Becauſe no man is bound to doe better then his beſt; and if he hath no ſin in the principle of his error, it is certain he did his beſt, that is, he did all his duty, and then to proceed by the beſt light he hath, is agreeable to right reaſon and to Religion.

7. Upon the ground of theſe Concluſions we may eaſily inferre, that though an erring conſcience is to be followed (as it is above explained) and yet that God alſo is intirely to be followed, and that therefore a man by accident, and by his own fault may be intangled *in nervis teſticulorum Leviathan* (as S. *Gregories* expreſſion is out of *Job*) in the infoldings of ſin and Sathan, and cannot eſcape innocently ſo long as he remains in that condition; yet becauſe he need not remain in that condition but either by ſuſpecting himſelf, or being admoniſhed by another, by inquiry and by prayer he may lay his error down, it follows that to obey God never hath an unavoidable *dilemma*, and never is impoſſible ſo long as the man is in a ſtate and poſſibility of repentance. Becauſe every error that infers an action that is formally as well as materially ſinful, not onely ought but may alſo be depoſed or laid down, becauſe in ſuch caſes no man is invincibly abuſed. No man can ever be in that condition, that to love God ſhall become a ſin to him; becauſe no man can really be ignorant, or properly entertain this opinion, that it is a ſin to love God; that rebellion is lawful; that adultery is no ſin; that it can be lawful to ſtrike a Prince for juſtice; or to break a Commandement to preſerve the intereſt of a Sect; that a man may rob God in zeal againſt idolatry and images. Theſe things are ſo plainly taught, that an error in theſe cannot chooſe but be malicious.

8. But when the error is in ſuch caſes where either it is *invincible* and irremediable, or where weakneſs pleads excuſe, the action is in that degree innocent in which the error is *unavoidable*. And if it could be otherwiſe, then a caſe might happen in which by the Laws of God a man could be bound to that which is *intrinſecally* evil, and then God and not man were the Author of the ſin.

9. *The ſumme is this.* *God* is *Supreme*, and *Conſcience* is his *Vicegerent* and *Subordinate*. Now it is certain, that the Law of an *inferiour* cannot binde againſt the command of a *Superiour when it is known*. But when the *Superiour* communicates the notices of his will by that *inferiour*, and no otherwiſe; the ſubject is to obey that inferiour, and in ſo doing he obeys both. But the Vicegerent is to anſwer for the misinformation, and the Conſcience for its error, according to the degree of its being culpable.

RULE 4.

It is a greater ſin to doe a good action againſt our Conſcience, then to doe an evil action in obedience to it.

1. THIS Rule concerns *degrees onely*, but is uſeful in the conducting ſome actions of *repentance*; and it is to be underſtood to be true onely in equal caſes, and when there is no circumſtance aggravating one part. Frier *Clement* the *Jacobine* thinks erroneouſly, that it is lawful to kill his King. The poor *Damoiſelle Faucette* thinks it unlawful to ſpit in the Church: but it happened that one day ſhe did it againſt her conſcience; and the Frier with his conſcience and a long knife killed the King. If the queſtion be here, who ſinn'd moſt, the diſparity is next to infinite, and the poor woman was to be chidden for doing againſt her conſcience, and the other to be hang'd for doing according to his. Becauſe the Friers error could not be invincible and inculpable, hers might; and in ſuch queſtions, the effect of which is of ſo high concernment, becauſe the errors in them are ſupreme and dangerous, the inquiſition ought to be very great where there can be difficulty, and therefore the negligence is always intolerable, and it is malicious where the diſcovery is eaſy, as it is in theſe caſes. And therefore in ſo different *materials* the caſe can no way be equal, becauſe in one there is a *greater light*, a more *ready grace*, a *perfect inſtruction*, an *evident proviſion*, an *open reſtraint*, and a *ready Commandement*.

2. But when the effect of the *Queſtions* are equal and not differenced by accidents, the rule is certain upon this reaſon: Becauſe a ſin done *againſt knowledge*, is greater then a ſin done *ignorantly*. He that ſins againſt his conſcience, ſins againſt all his knowledge in that particular. But if he ſins againſt a Commandement, which he knows not to be ſuch, he ſins ignorantly, and therefore the more excuſably. *But I found mercy* (ſaith S. *Paul*) *for I did it ignorantly in unbeleef.*

3. Upon this account it comes to be *the ſame kinde*, and *the ſame degree* of crime to ſin againſt *an erring*, and to ſin againſt *a right Conſcience* in the ſame inſtances. He that omits to hear Divine ſervice on *a Feſtival* when he hath no reaſonable impediment, and he who omits it upon a Common day, which he erroneouſly ſuppoſes to be *a Feſtival*, hath equally prevaricated the Law of the Church, and the analogy of the Commandement of God on which this of the Church is founded, they being equally againſt his rule by which he is to walk, and this error hath no influence upon the will, or choice, but is wholly extrinſecal to it. But this is to be underſtood in *errors of fact*, and ſuch as are *inculpable*, and have no effect, and make no change in the will.

4. And therefore in our penitentiall ſorrows and expiations we need not be curious to make a difference of them which have the ſame formal malice; and if we be taught to make any, it may have this evil conſequence in it, that we may love our ignorance, and flatter our ſelves in our irregularities, which we think will not be ſo ſeverely imputed, by reaſon of the error. If this be a great crime to diſobey our *Conſcience* teaching us righteous and true propoſitions, it is on the other ſide alſo very great to ſuffer our *Conſcience* to be ſo misled, that a good action ſhall become criminal by ſuch miſtaking; ſo that

beſides the departing from our Rule which is equal in both, they have their own ſuperadded evil to weigh againſt each other.

Rule 5.

It is not lawful to delight in an evil action (after the diſcovery of our error) which we did innocently in an erroneous Conſcience.

1. THE caſe is this; *Quintus Hortenſius* received a forg'd Will of *Minutius* from ſome *Hæredipetæ* or *Teſtamentary cheaters*, and becauſe they offered to verify it, and to give him a ſhare, he defended the forgery and poſſeſſed his part; but when he afterwards perceived the cheat, and yet detained the purchaſe, he grew infamous: It was *innocent* till he knew it, but then it was *criminal.* He ſhould not have pleaſed himſelf in it, becauſe he ſhould have reſtor'd it: But in this there is no queſtion.

2. But when the poſſeſſion or purchaſe may lawfully remain, there is ſome difference in the deciſion of the queſtion. *Spurinna* ſtriking a Stag, involuntarily and unwittingly kils his brother, and becomes rich by the inheritance. Here the man muſt ſeparate the effect from its relation, and ſo proceed: The inheritance was a bleſſing, the accident was a misfortune; and if he may not rejoyce in that, he may not give thanks for it, but as for a croſs. But if he pleaſes himſelf in the way of his entrance to it, he had a minde ready to have kill'd his brother if he durſt, or at leaſt did ſecretly wiſh him dead, that he might openly have his living. In this there is no great difficulty to make the ſeparation. God ſtrikes a man with blindneſs, and gives him a good memory; he ſighs for that, and rejoyces for this. A little Metaphyſicks makes this abſtraction.

3. 2. But concerning the act when it is diſcovered to have been evil, he is to have no other complacency, but becauſe he did it ignorantly. He that ſuffers nocturnal pollution, if he finds a remedy by it, is to rejoyce that himſelf ſuffered it involuntarily, that is, he may rejoyce that he did not ſin; and of the innocence of the joy, he can have no other teſtimony but by his hating the act in all caſes in which it is a ſin, and refuſing to doe it. But the French woman whom *Myl. Montaigne* ſpeaks of, who having ſuffered a rape by divers Souldiers, gave God thanks that without ſin ſhe had enjoyed pleaſure, had a criminal joy, and delighted in the action, for the voluntary entertainment of which ſhe onely wanted an excuſe.

4. 3. If we conſider the whole conjunction of things together, the evil act with the advantageous effect, we are to be indifferent to joy and ſorrow, that is, to doe neither directly, but to look on it as an effect of the Divine providence bringing good out of evil, and to fear leſt a joy in the whole ſhould entitle us too nearly to the ſin by the relation of an after act and approbation; or leſt we be ſo greedy of the effect that we be too ready to entertain the like upon terms equally evil, but leſs fortunate.

4. This is alſo to be underſtood onely in ſuch caſes, in which we are not oblig'd to reſtitution. For if we rejoyce in that effect which we ought to deſtroy,

ſtroy, we recal the ſin from the tranſient action, and make it dwell with the poſſeſſion, and then the firſt involuntary error becomes a choſen rapine.

6. 5. If the action was onely *materially*, and therefore *innocently*, an error againſt a humane Law, and turns to our ſecular advantage, we are more at liberty to rejoyce and pleaſe our ſelves in the advantage. Becauſe humane Laws make no action *intrinſecally* and *eſſentially* evil, but onely *relatively* and *extrinſecally*. And therefore the danger is not ſo great of polluting the conſcience by the contact and mingling of the affections with the forbidden action. He that eats fleſh in Lent in thoſe places and circumſtances where it is forbidden, and did not remember it was Lent, or did not know it, and by ſo doing, refreſhes himſelf well, and does advantage to his health, may not be accuſed eaſily if he delights in the whole action, as it joyns the error and the advantage. For beſides the former reaſon, this alſo is conſiderable; that humane Laws not being ſo wiſe and excellent as Divine Laws doe bend more eaſily and readily, that they may comply with the ends of charity and gentleneſs, and have in them a more apt diſpenſation, and almoſt offer themſelves to goe away, when a greater good comes in their room. But of this in its due place.

7. 6. In actions *materially* evil againſt the Divine Laws, if the event cannot be clearly ſeparated from the irregularity, the firſt innocent error is by the after pleaſure turned into a direct ſin. *Cneius Carbo* lay with *Lælia* unwittingly, ſuppoſing her to be his wife *Poſthumia*, but afterwards having diſcovered the error was pleaſed in the miſtake, becauſe he by the arts of fancy did by an after thought repreſent to himſelf the change and the variety, and then he was adulterous. For to be pleaſed in the miſtake which brings no advantage ſeparable from the ſin, is directly to chooſe the ſin for the advantage ſake; and this was *Carbo*'s caſe.

RULE 6.

An innocent, or invincibly erring Conſcience is to be obeyed even againſt the known Commandement of our Superiours.

1. AGainſt this S. *Bernard* ſeems to argue earneſtly; *Si tantopere vitanda ſunt ſcandala parvulorum, quantò ampliùs prælatorum, quos ſibi Deus coæquare quodammodo in utroque dignatur, dum ſibimet imputat & illorum reverentiam & contemptum? &c.* "*If with ſo great caution we muſt be careful that we doe not offend "any of Gods little ones, how much more muſt we be curious to avoid giving offence "to great ones, to our Superiours, whom God ſeems in ſome manner to make equal "to himſelf, while the reverence or the contempt that is done to them, he takes unto "himſelf; ſaying, He that heareth you, heareth me, and he that deſpiſeth you, deſpiſeth me. But if you ſay, that men may be deceived in their inqueſt after the will of "God, and may deceive others in reporting it; what is that to thee who knoweſt not "that they are deceived? eſpecially ſince from Scriptures thou art taught, That the "lips of the Prieſt ſhall preſerve knowledge, and they ſhall require the Law at his "mouth, becauſe he is the Angel of the Lord of Hoſts.* To which diſcourſe of S. *Bernard*, the following conſideration may adde ſome moment; and the diſcuſſing them, may give light to the inquiry. Lib. de præcept. & diſpenſ.

2. For in things indifferent the command of the Superiour muſt needs be accounted the will of God; for although our Superiours are executioners of the Divine Laws, yet becauſe they have alſo a Legiſlative power, they who can alter nothing in things commanded or forbiddden by God, muſt have a power to command or to forbid reſpectively in things indifferent or not at all. And therefore in ſuch things our conſcience is bound to obey.

3. And if conſcience be pretended againſt it, it is an error and ought to be laid down, for to follow this erring conſcience ingages us in ſin all the way.

4. But as he that ſubmits his underſtanding to the obedience of Jeſus, pleaſes God moſt, even when he does it in defiance of all arguments and temptations to the contrary, which though he cannot anſwer, yet he reſolves to follow Chriſt; ſo he does beſt who though his conſcience pretend reaſons againſt it, will yet lay aſide thoſe reaſons that he may ſubmit to his ſuperiors.

5. For it is a great crime by rebelling againſt or ſlighting the command of our Rulers, to give offence to whole ſocieties of men; *and there can be no greater contempt done to them, then by undervaluing their judgement to preferre our own; and therefore the Prophet pronounces woe to them who *are wiſe in their own eyes.*

6. But let a Subject be never ſo wiſe, he ought not to judge his Superiour, or to condemne his ſentence; and therefore he muſt be judged by it, and not by his own erring conſcience.

7. For as he who hath made a vow of obedience, hath deveſted himſelf of all pretences of contradicting what ſhall be impoſed; and if his conſcience ſhall check him in the inſtance, he ought to look upon it as a temptation and uſe it accordingly; ſo muſt it be alſo in every Subject, who by the Laws of God is as much tied to obey his Superiour, as he can be by any Law which he puts upon himſelf. The effect of theſe ſuggeſtions is this, that in things where the Law of God hath not declared poſitively, an erring conſcience is not to be attended to, but the Law of the Superiour, and his ſentence muſt be the guide of his Conſcience.

2. To this diſcourſe I anſwer in ſhort, That it is all very true; that the lawful Superiours are Gods Vicegerents appointed over us in things pertaining to God, ſo as to be Executioners of the Divine Laws; and beſides this, to make Laws in things indifferent and pertaining to men; That all contempt done to them is done to God; That it is ſcandalous to refuſe obedience to them; That he is a proud man who ſays he is wiſer then his Superiours; and he is intolerable that preferres his private folly before the publick wiſdome: And therefore it is well inferred, that the error of an abuſed conſcience ought to be laid down, and though he cannot in particular anſwer the arguments which trouble him, yet if he have reaſon to beleeve that though the arguments be too hard for him, yet that the Superiours command is innocent; it were well if he would lay aſide thoſe arguments and adhere to authority; yet all this touches not the ſecret of the Queſtion. For,

3. He that compares the law of *Conſcience*, with the law of the *Superiour*, compares *the law of God* and *the law of man*; and the queſtion is not whether a man ſhould follow his Superiour, or follow himſelf, but whether God or Man be to be obeyed, whether the *Superiour* or the *Supreme* be to be attended to? The reaſon of this is, becauſe the Conſcience ſtands bound by the ſuppoſed Law of God, which being ſuperiour to all the law of Man, muſt rather be obeyed; and therefore although the arguments conclude rightly that an erring conſci-

ence

ence diſobeying his Superiours lawful command does ſin greatly, yet they cannot conclude that he avoids ſin by obeying againſt his conſcience. For his condition is indeed perplexed, and he can no way avoid ſin, but by laying his error aſide firſt, and then obeying. And ſince he ſins whether he obeys his Superiours juſt command, or the unjuſt command of his conſcience, the inquiry is, in this ſad conjunction of things, by what hand he muſt be ſmitten, on which ſide he muſt fall, that he may fall the eaſier? To this the Rule anſwers, That his erring conſcience muſt be obeyed rather, becauſe he is perſwaded that God ſpeaks there, and is not perſwaded that God ſpeaks by his Superiour. Now though in this he be deceived, yet he that will not goe there where he thinks God is, and leave that where he thinks God is not, does uncertainly goe towards God, but does certainly forſake him, as much as lies in him. For,

4. It is to the Conſcience all one as if the Law of God were really upon it, if it be thought it is. *Idem eſt eſſe & apparere* in this caſe, and therefore the erring conſcience is to be attended to, becauſe the will and the affections are for God, though the judgement hath miſtaken a gloworm for the Sun. But this is to be underſtood onely, when the conſcience erres *innocently* and *unavoidably*, which it can never doe in the precepts of *nature*, and *brighteſt revelation*.

5. But if the Conſcience does erre *vincibly*, that is, with an actual fault, and an imperfect, artificial reſolution, ſuch a one, as a good man will not, and a wiſe man need not have, his preſent perſwaſion excuſes him not from a double ſin, for breaking a double duty. For he is bound to correct his error, and to perform the precepts of his Superiour, and if he does not, his ſin is more then that which was in the vicious cauſe of his miſperſwaſion, as I ſhewed in the explication of the former Rules.

6. But according as the ignorance and error approaches towards *pity*, *leſſening* or *excuſing*, ſo the ſin alſo declines. He that thinks it is not lawful at all to take up arms at the command of his Prince in an unjuſt, or a dubious cauſe, ſins if he does what he thinks ſo unlawful, and he commits no ſin in diſobeying, that onely excepted which entred into his miſperſwaſion, which is greater or leſs, or next to none at all, according as was the cauſe of his error, which in the whole conſtitution of affairs, he could not well avoid. But he that is fooliſhly perſwaded that all Government is unlawful and Antichriſtian, is bound to lay his error down, and beſides the vicious cauſe of his error, he ſins in the evil effect of it, though his imperfect, equivocal conſcience calls on him to the contrary, yet he ſins if he does not obey, becauſe in ſuch notorious and evident propoſitions an error is not onely malicious in the principle, but voluntary all the way; and therefore may eaſily, and muſt certainly be laid aſide in every period of determination.

Whatſoever Caſes are between theſe, partake of the extremes according to their proper reaſon and relation.

RULE

Rule 7.

The error of an abuſed Conſcience ought to be reformed, ſometimes by the command of the will, but ordinarily by a contrary reaſon.

1. 1. If the error did begin upon *a probable reaſon*, it cannot be reformed but *by a reaſon* ſeeming equal to it, becauſe a leſs reaſon hath not naturally the ſame efficacy with a greater, and to aſſent to a leſs probability againſt a greater is to doe againſt reaſon, againſt all that by which this leſſer reaſon is outweighed. For in this caſe the will can have no influence, which not being a cognoſcitive and diſcourſing faculty, muſt be determined by its own motives when it is not determined by reaſon, that is, by the motives of underſtanding. Now the motives of will when it is not moved by right reaſon, are *pleaſure* and *profit*, *ambition* and *revenge*, *partiality* and *pride*, *chance* or *humor*; and how theſe principles can diſabuſe a conſcience is very hard to underſtand, how readily and certainly they doe abuſe it, is not hard. Whether the ſtarres be even or odde? whether the ſoul be generated, or created and infuſed? whether it be lawful to fight or rail againſt a Prince, what hath the Will to doe with it? If the will meddles, and makes the reſolution, it ſhall be determined, not as it is beſt, but as it falls out by chance, or by evil, or by vain inducements. For in the will there is no argument good but reaſon; I mean both in the matter of *nature* and of *grace*, that is, reaſon chang'd into a motive, and an inſtrument of perſwaſion from whatſoever inducing principle.

Vide Chap. 4.

2. 2. * Some have affirmed that the error of a conſcience may fairly be depoſed upon any probable argument though of leſs perſwaſion; which if it could be admitted, would give leave for a man to chooſe his ſide as he pleaſes, becauſe in all moral things as dreſſed with circumſtances it is very eaſy to finde ſome degrees of probability, but very difficult to finde a caſe againſt which nothing can be diſputed. And therefore if it happens that a man be better perſwaded of his error then of the contrary truth, that truth cannot be choſen wiſely, nor the error honeſtly depoſed, becauſe it is done againſt the way of a man, not *abſolutely*, but *comparatively* againſt reaſon.

* Sanchez. ſelect. 99. diſp. 41. num. 27. Merolla in florileg. verb. conſcientia nu. 14. Badus de conſcient. a diſcept. 3. cap. 11.

3. 3. If the reaſon on both ſides ſeems equally probable, the will may determine by any of its proper motives that are honeſt; any prudent intereſt, any fair compliance, any cuſtome, in caſe theſe happen to be on the right ſide. When the arguments ſeem equal, the underſtanding or conſcience cannot determine. It muſt either be a chance, and a ſpecial providence of God, or a particular grace that caſts us on the right ſide. But whatſoever it be that then determines us to the right, if of it ſelf it be innocent, it is in that caſe an effect of Gods grace, and an apt inſtrument of *a right Conſcience*.

4. 4. When the conſcience is erroneous, and the error unreaſonable, commenc'd wholly upon intereſt, trifling regards, or vicious principles, the error may be depoſed honeſtly, though there be no reaſon thought of to the contrary, beſides the diſcovery of the firſt abuſe. The will in this caſe is enough. *Volo ſervare animam meam*, ſaid one; I will, I am reſolved to ſave my own ſoul. A man may and ought to hate the evil principle of his error, and decline

it

it upon the ſtock of indignation, which in this caſe is a part of repentance. And this inſinuates the reaſon of this diſcourſe. For,

5. Repentance is founded principally in the will, and whatſoever a man is to leave upon the ſtock of repentance, he may doe it wholly upon the ſtock of his will, informed, or inclin'd by general propoſitions, without any cogniſance of the particulars of the preſent Queſtion. *Eratoſthenes* comming amongſt the *Perſian Magi*, and obſerving their looſer cuſtomes of marrying their ſiſters and their mothers, falls in love with his half ſiſter *Lampra* and marries her. A while after perceiving that he entred upon this action upon no other account but luſt, and fancy, and compliance with the impurer *Magi*, began to hate his act for the evil inducement, and threw away her and his folly together. This he might doe without any further reaſonings about the indecency of the mixture, by perceiving that a crime or a folly ſtood at the entrance and invited him to an evil lodging. He that begins without reaſon, hath reaſon enough to leave off, by perceiving he had no reaſon to begin; and in this caſe the will is the great agent, which therefore here is no ill principle, becauſe it leaves the error upon the ſtock of grace and repentance. Vide Chap. 4. Rule 5.

6. 5. If the will entertained the error without any reaſon at all, as oftentimes it does, it knows not why; ſhe may alſo depoſe it honeſtly without any reaſon relating to the *particular*, upon *this general*, that it could not make the action to be conſcientious to have it done without any inducement. But then the taking up the contrary truth upon as little reaſon is innocent, becauſe it happens to be on the right ſide; but it is not *Vertue* nor *Conſcience* till it be perſwaded by ſomething that is a fit inducement either in the general, or in the particular.

RULE 8.

The error of a Conſcience is not always to be opened to the erring perſon by the Guides of ſouls, or any other charitable adviſer.

1. IF the error began with a ſin, and ſtill dwells there upon the ſame ſtock, or if it be productive of a ſin, it is always to be diſcovered, though the greateſt temporal inconvenience were certainly conſequent to the diſcovery. Becauſe a man muſt not be ſuffered to lie in ſin, no not a minute, if he can be recovered or reſcued from it; and no temporal advantage or diſadvantage can be conſiderable in this caſe, which is the caſe of a ſoul. An error that is *vincible* is all the way *criminal* and muſt not be permitted.

2. 2. If the error be *invincible* and *innocent* or *pitiable* in the cauſe, and yet ends in an intolerable event, and the effect be a crime or a great danger to ſouls, the error muſt be diſcovered by them that can. The *Novatians* erred in the matter of Repentance: The inducing cauſe of their error was an over active zeal, and too wary a tenderneſs in avoiding ſcandal and judging concerning it. God ſerved the ends of his glory by the occaſion of that error, for he uſes to bring good out of every evil; and the Church under a better article

ticle grew as wary as the *Novatians*,as watchful againſt ſcandal,as ſevere againſt lapſed perſons. Now although in this caſe, the error was ſtom an innocent cauſe, yet becauſe it landed them upon a courſe of diſcipline, and perſwaſion that was not innocent, they were not to be permitted in their error, though the diſſolut on of the error might or would have occaſioned the remiſſion of diſcipline. For their doctrine of repentance was diſhonourable to the mercies of God, an inſtrument of deſpair, a rendring the power of the Keys and the Miniſtery of the order Eccleſiaſtical in a manner wholly uſeleſs, and would if it were purſued to its juſt conſequents have hindred repenting ſinners to revert to the folds of the Church; and therefore for the accidental good which God brought, or which was likely to have come from that error or the innocence of its principle, it was not to be conceal'd, but reprov'd and deſtroyed becauſe it dwelt in ſin. He that beleeves *that* repentance to be ſufficient, which hath in it nothing but ſorrow for what is paſt, and a preſent purpoſe without amendment really in the future, upon no pretence is to be complied withall in the palliation of his error, becauſe the conſequent of his error is ſuch a danger, or ſuch a ſtate of ſin, for which nothing can make amends.

3. 3. If the error be invincible, and the conſequent of the perſwaſion be conſiſtent with the ſtate of grace, the error muſt be opened or not opened, according to prudent conſiderations relating to the perſon and his ſtate of affairs. So that the error muſt rather be ſuffered then a grievous ſcandal, or an intolerable, or a very great inconvenience. To this purpoſe *Comitolus* ſays it was determined by a Congregation of learned and prudent perſons in anſwer to a ſtrange and a rare caſe happening in *Venice*; A Gentleman ignorantly did lie with his Mother; ſhe knew it, but intended it not, till for her curioſity and in her ſearch whether her ſon intended it to her maid, ſhe was ſurpriſed and gotten with child: She perceiving her ſhame and ſorrow haſten, ſent her ſon to travel for many years; and he returned not till his Mothers female birth was grown to be a handſome pretty Maiden. At his return he eſpies a ſweet fac'd girl in the houſe, likes her, loves her, and intends to marry her. His mother conjured him by all that was ſacred and profane that he ſhould not, ſaying, ſhe was a beggers child, whom for pities ſake ſhe reſcued from the ſtreets and beggery, and that he ſhould not by diſhonouring his family make her to die with ſorrow. The Gentlemans affections were ſtrong, and not to be maſtered, and he married his own ſiſter and his own daughter. But now the bitings of the Mothers conſcience were intolerable and to her Confeſſor ſhe diſcovered the whole buſineſs within a year or two after this prodigious marriage, and asked whether ſhe were bound to reveal the caſe to her ſon and daughter, who now liv'd in love and ſweetneſs of ſociety, innocently, though with ſecret misfortune which they felt not. It was concluded negatively, ſhe was not to reveal it, leſt ſhe bring an intolerable miſery in the place of that which to them was no ſin; or leſt upon notice of the error they might be tempted by their mutual endearment and their common children, to cohabite in deſpight of the caſe, and ſo change that into a known ſin, which before was an unknown calamity; and by this ſtate of the anſwer, they were permitted to their innocence, and the children to their inheritance, and all under the protecton of a harmleſs, though erring and miſtaken conſcience.

4. 4. If it be doubtful whether more good or hurt may be conſequent to the diſcovery, it is better to conceal it. Becauſe it is more tolerable to have a good omitted, then to have an evil done. That may ſometimes be lawful, this

can

can never; and a known evil that is not a ſin, is rather to be admitted then an unknown, which no man can tell whether it will arrive. But in this, the *prudence of a good and a wiſe man* is to be his onely *guide*, and *Gods glory* his onely *meaſure* and the *publick good*, and the greater concernments of the intereſſed be chiefly *regarded*.

CHAP. IV.

Of the Probable or Thinking Conſcience.

RULE I.

A probable Conſcience is an imperfect aſſent to an uncertain propoſition, in which one part is indeed clearly and fully choſen, but with an explicit, or implicit notice that the contrary is alſo fairly eligible.

1. A *Probable Conſcience* dwells ſo between *the Sure* and the *Doubtful* that it partakes ſomething of both. For *a ſure Conſcience* may begin upon a *probable* inducement, but is made *ſure* either by an aſſent to the Concluſion, ſtronger then the premiſes will inferre, or by a reflex act, or ſome other collateral hardneſs and adventitious confidence, and therefore the *probable* is diſtinguiſhed from that by the imperfection of the aſſent. But becauſe in that reſpect it approaches to the doubtful, and in that is alike, it is differenced from this by the determination. For a *doubtful* conſcience conſiders the probabilities on each ſide, and dares not chooſe, and cannot. But the probable does chooſe, though it conſiders that in the thing it ſelf there can be no certainty. And from them both it is diſtinguiſhed by the intervening of the Will. For in the *ſure Conſcience* the Will works not at all, becauſe it is wholly conducted by the underſtanding, and its proper motives. In the *doubtful* the Will cannot interpoſe by reaſon of fear and an uncertain ſpirit; but in the *probable* it can intervene, not *directly*, but *collaterally* and *indirectly*, becauſe the motives of the probable conſcience are not always ſufficient to make the concluſion without ſomething of the Will applied to extrinſecal motives which reflect alſo upon the underſtanding; and yet in this conſcience there is no fear, and therefore the Will can here be obeyed, which in the firſt needs not, in the laſt it cannot. For it is remarkable, that a probable conſcience though it be in *ſpeculation uncertain*, yet it may be *practically certain*, that is, he that beleeves his opinion to be *probable*, cannot but think that it is poſſible he may be in an actual error, but yet he may know that it is innocent to doe that for which he hath a probable reaſon: for though in all theſe caſes he may chooſe that which is the wrong part, yet he proceeds as ſafely as if he had choſen right, for if it were not ſafe to doe that which is onely probable, then nothing could be done till ſomething were demonſtrated; and then in moral Theology we ſhould often ſtand ſtill and ſuſpend our act, but ſeldome doe any thing; nay ſometimes

we

... neither act nor ſuſpend, it being but probable that either is to be ... ſometimes it happens what *Ariſtotle* ſaid, that falſe things are ... probable then true, as it is to all them who are innocently and in- ... abuſed; and in this caſe, if probability were not a ſufficient convicti- ... conſcience, ſuch perſons could not honeſtly conſent to truth. * For even ... men diſagree in their ſentences of truth and error, and after a great ſearch, ... doe they diſcover one ſingle truth unto juſt meaſures of confidence; ... therefore no other law could be exacted for humane actions, then an opinion honeſtly entred into, and a probable conſcience. And it is remarkable that *Cicero* ... that the word *Arbitror* is *verbum conſideratiſsimum*, & the old Romans were reſerv'd and cautious in the decrees of Judges, and the forms of their oath began with *arbitror* although they gave teſtimony of things whereof they were eye witneſſes; and the words which their *Prætors* did uſe in their ſentences, was *feciſſe videtur*, or *non videtur*. *He that obſerveth the winds ſhall not ſow, and he that watcheth the clouds ſhall never reap*; which means, that if we ſtart at every objection, and think nothing ſafe but what is certain, and nothing certain but what can be demonſtrated, that man is over wiſe and over juſt, and by his too curious ſearch miſſes what he inquires for. Λέγοιτο δ' ἂν ἱκανῶς εἰ κατὰ τὴν ὑποκειμένην ὕλην ἀποφαίνοιτο, *That is well enough prov'd, that is prov'd according to the ſubject matter.* For there is not the ſame exactneſs to be look'd for in all diſciplines, any more then in all manufactures. But in thoſe things which are honeſt and juſt, and which concern the publick, τοσαύτην ἔχει διαφορὰν καὶ πλάνην, there is ſo much diſſention and deception that things are good or bad not by themſelves, but as they are in law; πεπαίδευται δὲ καλῶς ὃς ἐπὶ τοσοῦτον τὴν ἀκρίβειαν ἐπιζητεῖ καθ' ἕκαστον γένος ἐφ' ὅσον ἡ τοῦ πράγματος φύσις ἐπιδέχεται. He is well inſtructed who expects that manner of proof for things, which the nature of the things will bear, ſaid *Ariſtotle*. And in moral things, it is ſufficient that a thing is judged true and certain, though by an uncertain argument; and the opinion may be practically certain, when the knowledge of it is in ſpeculation onely probable.

Eccl. l. 4.

Ethic. l. 1. c. 1.

2. It hath two ſorts of motives, *intrinſecal* and *extrinſecal*. That is *reaſon*, this is *authority*, and both of them have great conſiderations in order to practice, of which I am to give account in the following Rules.

RULE 2.

A Conſcience that is at firſt, and in its own nature probable, may be made certain by accumulation of many probabilities operating the ſame perſwaſion.

1. EVery probable argument hath in it ſomething of perſwaſion and proof, and although it cannot produce evidence and intire conviction to a wiſe and a diſcerning ſpirit, yet it can effect all that it ought; and although, if the Will liſt, or if paſſions rule, the underſtanding ſhall be made ſtubborn againſt it, and reject it eaſily; yet if nothing be put in barre againſt it, it may bring a man to adhere to it beyond the evidence. But in ſome caſes there are a whole army of little people, heaps of probable inducements which the underſtanding amaſſes together, and from every ſide gathers all that can give light and motion to

the

the article in queſtion, it draws auxiliaries from every thing, fights with every weapon, and by all means purſues the victory; it joyns line to line, and precept to precept, reaſon to reaſon, and reaſon to authority; the ſayings of wiſe men with the proverbs of the people; conſent of talkers, and the arguings of diſputers; the nature of the thing, and the reaſonableneſs of its expectations; the capacities and poſſibilities of men, and of accidents; the purpoſes and deſigns, the uſefulneſs, and rewards; and by what all agents are and ought to be moved; cuſtomes are mingled with laws, and decencies with conſideration of profit; the underſtanding conſiders the preſent ſtate and heap of circumſtances, and by prudence weighs every thing in its own ballance; it conſiders the conſequent of the opinion it intends to eſtabliſh, and well weighs the inconvenience of the contrary. But from the obſcurity and inſufficiency of theſe particulars, there cannot come a perfect light; if a little black be mingled with white, the product muſt have ſomething of every influence that can be communicated from its principle, or material conſtitution; and ten thouſand millions of *uncertains* cannot make one *certain*.

2. In this caſe the underſtanding comes not to any certainty by the energy of the motives and direct arguments of probability, or by the firſt effort and impreſſes of their ſtrength, but by a particular reflexion which it makes upon the heap, and by a ſecondary diſcourſing extracted from the whole, as being therefore convinced, becauſe it beleeves it to be impoſſible that ſo many conſiderations, that no way conſpire either in matter or deſign, ſhould agree in the production of a lie. It is not likely that ſo many beams of light ſhould iſſue from the chambers of heaven for no other reaſon but to lead us into a precipice. Probable arguments and prudential motives are the great hinges of humane actions, for as a Pope once ſaid, It is but a little wit that governs the world; and the uncertainty of arguments is the great cauſe of contingency in events; but as uncertain as moſt counſels are, yet all the great tranſactions of the affairs of the world are reſolved on and acted by them; by ſuſpicions and fears and probable apprehenſions infinite evils are prevented; and it is not therefore likely to be an error by which ſo perpetually ſo many good things are procured and effected. For it were a diſparagement to the wiſe providence of God, and a leſſening the rare Oeconomy of the Divine Government that he ſhould permit almoſt all the world, and all reiglements, the varieties of event, and all the changes of Kingdomes, and all counſels and deliberations, to be conducted by moral demonſtrations, and to be under the power of probabilities, and yet that theſe ſhould be deceitful and falſe. Neither is it to be imagined that God ſhould permit wiſe men, and good, men that on purpoſe place their reaſon in indifference, that abate of their heats and quench their own extravagant fires, men that wipe away all clouds and miſts from their eyes, that they may ſee clearly, men that ſearch as they ought to do, for things that they are bound to finde, things that they are commanded to ſearch, and upon which even all their intereſts depends, and yet inquiring after the end whither they are directed, and by what means it is to be acquired that theſe men ſhould be inevitably abuſed by their own reaſon, by the beſt reaſon they have; and that when concerning the thing which cannot be demonſtrated by proper and phyſical arguments, yet we are to enter into a perſwaſion ſo great, that for the verification of it men muſt venture their lives and their ſouls; I ſay, if this kinde of proof be not ſufficient to effect all this, and ſufficiently to aſſure ſuch men, and competently to affirm and ſtrengthen ſuch reſolutions, ſalvation and damnation muſt be by chance, or, which is worſe, it muſt be impoſſible to

be well, but when it cannot chooſe to be otherwiſe; and this I ſay is not to be imagined that God wil or does permit, ſince all theſe entercourſes ſo much concern Gods glory and our eternal intereſt. The main events of heaven and hell doe in ſome regards depend, as to us, upon our faith, whoſe objects are repreſented with ſuch lights from God and right reaſon as are ſufficient to perſwade, not to demonſtrate; they are ſuch which leave ſomething to us of choice and love, and every propoſition of Scripture though it be as *ſure*, yet it is not ſo *evident* as the principles of Geometry; and the Spirit of God effects his purpoſes with an influence as ſoft and placid as the warmth of the Sun, while a phyſical demonſtration blows hard and high as the Northwind; indeed a man muſt uſe rudeneſs if he does not quit his garment at ſo loud a call, but we are more willing to part with it when the Sun gently requires us: ſo is *a moral demonſtration*, it is ſo humane, ſo perſwaſive, ſo complying with the nature and infirmities of man, with the actions of his life and his manner of operation, that it ſeems to have been created on purpoſe for the needs and uſes of man in this life, for vertue and for hopes, for faith and for charity, to make us to beleeve by love, and to love by beleeving, for in heaven they that ſee and love, cannot chooſe but love, and ſee, and comprehend; for it is a reward and fils all their faculties, and is not poſſeſſed by us, but it ſelf poſſeſſes us; In this world where we are to doe ſomething our ſelves, though all by the grace of God, that which we doe of our ſelves is nothing elſe but to work as we our ſelves can, which indeed happens to be in propoſitions, as it is in the love of God, this cannot fail us, but we may fail of it, and ſo are the ſentences of Religion, infallible in themſelves, but we may be deceived, while by a fallible way we proceed to infallible notices, for nothing elſe could indear our labour and our love, our ſearch and our obedience; and therefore this muſt be ſufficient and acceptable, if we doe what we can: But then this alſo will ſecure our confidence, and in the noiſes of Chriſtendome when diſputing fellows ſay their brother is damned for not beleeving them, we need not to regard any ſuch noiſes, if we proceed prudently as we can, and honeſtly as we ought, probable motives of our underſtanding are our ſufficient conduct, and then we have this warrant, *Brethren, if our hearts condemne us not, then have we peace towards God.* And God would never have inſpired his Church with prudence, or made any ſuch vertue, if the things which were put under the conduct of it, that is, *probabilities*, were not inſtrumental to the ſervice of God, and to the verification of all its juſt and proper productions.

3. Probable arguments are like little ſtarres, every one of which will be uſeleſs as to our conduct and enlightening, but when they are tyed together by order and vicinity, by the finger of God and the hand of an Angel, they make a Conſtellation, and are not onely powerful in their influence, but like a bright Angel to guide and to enlighten our way. And although the light is not great as the light of the Sun or Moon, yet Mariners ſail by their conduct; and though with trepidation and ſome danger, yet very regularly they enter into the haven. This heap of probable inducements, is not of power as a Mathematical and Phyſical demonſtration, which is in diſcourſe as the Sun is in heaven, but it makes a Milky and a white path, viſible enough to walk ſecurely.

4. And next to theſe tapers of effective reaſon, drawn from the nature and from the events, and the accidents and the expectations and experiences of things, ſtands the grandeur of a long and united authority: The underſtanding thus reaſoning, That it is not credible that this thing ſhould have eſcaped the

the wiſer heads of all the great perſonages in the world, who ſtood at the chairs of Princes, or ſate in the Rulers chair, and ſhould onely appear to two or three bold, illiterate, or vicious perſons, ruled by luſts, and overruled by evil habits; but in this we have the ſame ſecurity and the ſame confidence that timorous perſons have in the dark; they are pleaſed and can ſee what is and what is not, if there be a candle, but in the dark they are leſs fearful if they be in company.

5. This way of arguing ſome are pleaſed to call a moral demonſtration, not that it can make a propoſition clear and bright, and quit from clouds and obſcurity, as a natural demonſtration can, for I may in this caſe uſe *Ariſtotles* saying, τὸ μὲ ἀληθὲς, ἀλλ' ἀσαφὲς, Things of this nature may be very true, but are not very evident; but it can produce the ſame effect, that is, it can lead into truth, not with as much brightneſs, but with as much certainty and infallibility in the event of things. For a man may as proſperouſly and certainly arrive at his journeys end though but conducted by him that went the way but once before him, as if he had a ſtraight path walled in on both ſides; ſo may we finde truth as certainly by probabilities, as by demonſtrations: we are not ſo ſure that we finde it, but it is oftentimes as ſurely found. And if the heap arrive at that which we call a moral demonſtration, it is as certain that no moral demonſtration can be oppoſed againſt it, as that no natural demonſtration can be brought in contradiction to a natural. For the underſtanding cannot call any thing a moral demonſtration, till by conſidering the particulars on both ſides, the reaſonableneſs of one, and the unreaſonableneſs of the other, with a cold ſent, and liberty of ſpirit, and an unbyaſſed Will, it hath paſſed the ſentence for the truth; and ſince in this caſe all the oppoſition is between ſtrength and power on one ſide, and weakneſs and pretence on the other, it is impoſſible that the oppoſite parts ſhould be demonſtrations or ſeem ſo to the ſame man. And this appears by this alſo, that ſome propoſitions which are onely proved by a conjugation of probable inducements, have yet obtained as certain and as regular events as a natural demonſtration, and are beleeved *equally*, *conſtantly*, and *perpetually* by all wiſe men, and the underſtanding does regularly receive the ſame impreſſion, and give the ſame aſſent, and for ever draws forth the ſame concluſions when it is not abuſed with differing prejudices and preoccupations, when its liberty and powers are not infeebled with cuſtomes, example and contrary breeding, while it is not brib'd by intereſt, or hurried away by paſſion.

6. Of this I ſhall chooſe to give one inſtance, which as it is of the greateſt concernment in the world in it ſelf, ſo the gay impieties and bold wits of the world who are witty againſt none more then God and Gods wiſdome, have made it now to be but too ſeaſonable, and that is, that *the Religion of Jeſus Chriſt*, or *The Chriſtian Religion is from God*; concerning which I will not now pretend to bring in all the particulars whereby each part of it can be verified, but by heaping together ſuch heads of probabilities which are or may be the cauſe of an infinite perſwaſion, and this I had rather chooſe to doe for theſe reaſons:

7. 1. Becauſe many men excellently learned have already diſcourſed largely of the truth of Chriſtianity, and approved by a direct and cloſe congreſſion with other Religions, by examination of the contrary pretences, refutation of their arguments, anſwering their objections, and have by direct force ſo farre prevailed, that all the reaſon of the world appears to ſtand on the Chriſtian ſide: and for me to doe it now, as there is no juſt occaſion mini-

ſtred by this argument, ſo neither can it be uſeful and neceſſary.

8. 2. In that way of arguing, every man that is an adverſary can anſwer one argument, and ſome can reprove many, and none can prevail ſingly to poſſeſs all the underſtanding, and to fill all the corners of conſideration, but in a moral demonſtration that can be ſupplied.

9. 3. In the other way an adverſary ſuppoſes himſelf to prevail when he can anſwer the arguments ſingly, and the diſcourſes in that method are like the ſervants ſent ſingly to gather fruits of the Husbandmen, they killed them as faſt as they came, and a man may kill a whole Kingdome over, if the opponents come by ſingle perſons; but a moral demonſtration is like an Army whichcan loſe ſingle perſons and yet prevail, but yet cannot be beaten unleſs it be beaten all.

10. 4. The few little things that Atheiſtical perſons prate againſt the holy Jeſus and his moſt excellent Religion, are infinitely outweighed by the multitude and variety of things to be ſaid for it; and let the others ſtand (as if they meet with perſons that cannot anſwer them) yet they are ſure this greater ought to prevail, becauſe it poſſeſſes all the corners of reaſon, and meets with every inſtance, and complies with the manner of a man, and is fitted to the nature of things, and complies with the Will, and perſwades the underſtanding, and is a guard againſt the tricks of Sophiſters, and does not onely effect its purpoſe by direct influence, but is ſecured by reflexion upon it ſelf, and does more by its indirect ſtrength, and by a back blow, then by its firſt operations; and therefore,

11. This inſtance and this way of argument may be of more uſe to thoſe perſons who cannot ſo diſpute, but that they are apt to be abuſed by little things, by talkings and imperfect arguings; it may be a defenſative againſt trifling objections, and the impious pratings of the *nequam ingenioſi* the witty fools, while the men are armed by love and prudence and wiſe ſecurities to ſtand with confidence and piety againſt talkings and intrigues of danger; for by this way beſt, *Wiſdome is juſtified of all her children.*

An inſtance of Moral demonſtration, or a conjugation of probabilities, proving that the Religion of Jeſus Chriſt is from God.

12. THis diſcourſe of all the diſputables in the world, ſhall require the fewest things to be granted; even nothing but what was evident, even nothing but the very ſubject of the Queſtion, *viz.* That there was ſuch a man as Jeſus Chriſt, that he pretended ſuch things and taught ſuch doctrines: for he that will prove theſe things to be from God, muſt be allowed that they were from ſomething or other. But this poſtulate I doe not ask for need, but for orders ſake and Art; for what the hiſtories of that Age reported as a publick affair, as one of the moſt eminent tranſactions of the world, that which made ſo much noiſe, which cauſed ſo many changes, which occaſioned ſo many warres, which divided ſo many hearts, which altered ſo many families, which procured ſo many deaths, which obtained ſo many Laws in favour, and ſuffered ſo many Reſcripts in the diſfavour of its ſelf; that which was not done in a corner, but was 33. years and more in acting; which cauſed ſo many Sects, and was oppoſed by ſo much Art, and ſo much power that it might not grow, which filled the world with noiſe, which effected ſuch great changes in the bodies of men by curing the diſeaſed, and ſmiting the contumacious or the hypocrites, which drew ſo many eyes, and fill'd ſo many tongues, and imployed ſo many pens,

pens, and was the *care* and the *queſtion* of the whole world at that time, and immediately after; that which was conſigned by publick acts and records of Courts, which was in the Books of friends and enemies, which came accompanied and remarked with eclipſes and ſtars and prodigies of heaven and earth, that which the Jews even in ſpite and againſt their wills confeſſed, and which the witty adverſaries intending to overthrow, could never ſo much as challenge of want of truth in the matter of fact and ſtory; that which they who are infinitely concerned that it ſhould not be beleeved, or more, that it had never been, doe yet onely labour to make to appear not to have been Divine: Certainly, this thing is ſo certain that it was, that the defenders of it need not account it a kindneſs to have it preſuppoſed; for never was any ſtory in the world that had ſo many degrees of credibility, as the ſtory of the perſon, life and death of Jeſus Chriſt: And if he had not been a true Propher, yet that he was in the world, and ſaid and did ſuch things cannot be denied; for even concerning Mahomet we make no queſtion but he was in the world, and led a great part of mankinde after him, and what was leſs proved we infinitely beleeve; and what all men ſay, and no man denies, and was notorious in it ſelf, of this we may make further inquiries whether it was all that which it pretended, for that it did make pretences and was in the world, needs no more probation.

13. But now whether Jeſus Chriſt was ſent from God and delivered the Will of God, we are to take accounts from all the things of the world which were on him, or about him, or from him. Conſider firſt his perſon: he was foretold by all the Prophets: He, I ſay, for that appears by the event, and the correſpondencies of their ſayings to his perſon: he was deſcribed by infallible characteriſms which did fit him, and did never fit any but him; for when he was born, then was the fulneſs of time, and the Meſſias was expected at the time when Jeſus did appear, which gave occaſion to many of the godly then to wait for him, and to hope to live till the time of his revelation: and they did ſo, and with a ſpirit of Prophecie which their own nation did confeſs and honour, glorified God at the revelation: and the moſt excellent and devout perſons that were conſpicuous for their piety did then rejoyce in him, and confeſs him; and the expectation of him at that time was ſo publick and famous, that it gave occaſion to divers Impoſtors to abuſe the credulity of the people in pretending to be the Meſſias; but not onely the predictions of the time, and the perfect Synchroniſms did point him out, but at his birth a ſtrange ſtarre appeared, which guided certain Levantine Princes and Sages to the inquiry after him; a ſtrange ſtarre which had an irregular place and an irregular motion, that came by deſign, and acted by counſel, the counſel of the Almighty Guide, it moved from place to place, till it ſtood juſt over the houſe where the Babe did ſleep; a ſtarre of which the Heathen knew much, who knew nothing of him; a ſtarre which *Chalcidius* affirmed to have ſignified the deſcent of God for the ſalvation of man; a ſtarre that guided the wiſe Chaldees to worſhip him with gifts (as the ſame diſciple of *Plato* does affirm, and) as the holy Scriptures deliver; and this ſtarre could be no ſecret; It troubled all the Country; It put *Herod* upon ſtrange arts of ſecurity for his Kingdome, it effected a ſad tragedy accidentally, for it occaſioned the death of all the little Babes in the City, and voiſinage of *Bethlehem*: But the birth of this young child which was thus glorified by a ſtarre, was alſo ſignified by an Angel, and was effected by the holy Spirit of God, in a manner which was in it ſelf ſupernatural; a Virgin was his Mother, and God was his Father, and his beginning was miraculous; and this matter of his birth of a Virgin was proved to an intereſted and jealous

perſon, even to *Joſeph* the ſuppoſed father of *Jeſus*, it was affirmed publickly by all his family, and by all his diſciples, and publiſhed in the middeſt of all his enemies, who by no artifice could reprove it, a matter ſo famous, that when it was urged as an argument to prove Jeſus to be the Meſſias, by the force of a Prophecie in *Iſaiah* [*A Virgin ſhall conceive a Son*] they who obſtinately refuſed to admit him, did not deny the matter of fact, but denied that it was ſo meant by the Prophet, which if it were true, can onely prove that Jeſus was more excellent then was foretold by the Prophets, but that there was nothing leſs in him then was to be in the Meſſias; it was a matter ſo famous that the Arabian Phyſicians who can affirm no ſuch things of their Mahomet, and yet not being able to deny it to be true of the holy Jeſus, endevour to elevate and leſſen the thing, by ſaying, It is not wholly beyond the force of nature, that a Virgin ſhould conceive, ſo that it was on all hands undeniable, that the Mother of Jeſus was a Virgin, a Mother without a Man. This is that Jeſus at whoſe preſence before he was born, a babe in his mothers belly alſo did leap for joy, who was alſo a perſon extraordinary himſelf, conceived in his mothers old age, after a long barrenneſs, ſignified by an Angel in the Temple, to his father officiating his Prieſtly Office, who was alſo ſtruck dumb for his not preſent beleeving: all the people ſaw it, and all his kindred were witneſſes of his reſtitution, and he was named by the Angel, and his Office declared to be the fore-runner of the holy Jeſus; and this alſo was foretold by one of the old Prophets; for the whole ſtory of this Divine perſon is a chain of providence and wonder, every link of which is a verification of a Prophecie, and all of it is that thing which from *Adam* to the birth of *Jeſus* was pointed at and hinted by all the Prophets, whoſe words in him paſſed perfectly into the event. This is that Jeſus who as he was born without a Father, ſo he was learned without a Maſter, he was a Man without age, a Doctor in a Childs garment, diſputing in the Sanctuary at 12. years old. He was a ſojourner in *Egypt*, becauſe the poor Babe born of an indigent Mother was a formidable rival to a potent King, and this fear could not come from the deſign of the infant, but muſt needs ariſe from the illuſtrioufneſs of the birth, and the Prophecies of the child, and the ſayings of the learned, and the journey of the Wiſe men, and the decrees of God; this journey and the return were both managed by the conduct of an Angel and a Divine dream, for to the Son of God all the Angels did rejoyce to miniſter. This bleſſed Perſon made thus excellent by his Father, and glorious by miraculous conſignations, and illuſtrious by the miniſtery of heavenly ſpirits, and proclaimed to *Mary* and to *Joſeph* by two Angels, to the Shepherds by a multitude of the heavenly Hoſt, to the Wiſe men by a Prophecie and by a Star, to the Jews by the Shepherds, to the Gentiles by the three Wiſe men, to *Herod* by the Doctors of the Law, and to himſelf perfectly known by the inchaſing his humane nature in the boſome and heart of God, and by the fulneſs of the Spirit of God, was yet pleaſed for 30. years together to live an humble, a laborious, a chaſt and a devout, a regular and an even, a wiſe and an exemplar, a pious and an obſcure life, without complaint, without ſin, without deſign of fame, or grandeur of ſpirit, till the time came that the clefts of the rock were to open, and the Diamond give its luſtre, and be worn in the Diademes of Kings, and then this perſon was wholly admirable; for he was uſhered into the world by the voice of a loud Crier in the wilderneſs, a perſon auſtere and wiſe, of a ſtrange life, full of holineſs and full of hardneſs, and a great Preacher of righteouſneſs, a man beleeved by all the people that he came from God, one who in his own nation gathered diſciples publickly, and (which amongſt them was a great matter) he was the Doctor

of

of a new institution, and baptized all the Country, yet this man so great, so rever'd, so followed, so listned to by King and people, by Doctors and by ideots, by Pharisees and Sadduces, this man Preached Jesus to the people, pointed out the Lamb of God, told that he must increase, and himself from all that fame must retire to give him place; he received him to baptism after having with duty and modesty declared his own unworthiness to give, but rather a worthiness to receive baptism from the holy hands of Jesus; but at the solemnity God sent down the holy Spirit upon his holy Son, and by a voice from heaven, a voice of thunder (and God was in that voice) declared that this was his Son, and that he was delighted in him. This voyce from heaven was such, so evident, so certain a conviction of what it did intend to prove, so known and accepted as the way of Divine revelation under the second Temple, that at that time every man that desired a sign honestly, would have been satisfied with such a voyce; it being the testimony by which God made all extraordinaries to be credible to his people from the days of *Ezra*, to the death of the Nation; and that there was such a voice, not onely then, but divers times after, was as certain, and made as evident as things of that nature can ordinarily be made. For it being a matter of fact, cannot be supposed infinite, but limited to time and place, heard by a certain number of persons, and was as a clap of thunder upon ordinary accounts, which could be heard but by those who were within the sphere of its own activity; and reported by those to others, who are to give testimony as testimonies are required, which are credible under the test of two or three disinteressted, honest, and true men, and though this was done in the presence of more, and oftner then once, yet it was a divine testimony but at first, but is to be conveyed by the means of men; and as God thundred from heaven at the giving of the Law, though that he did so, we have notice onely from the Books of *Moses* received from the Jewish Nation; so he did in the days of the *Baptist*, and so he did to *Peter*, *James*, and *John*, and so he did in the presence of the *Pharisees* and many of the common people; and as it is not to be supposed that all these would joyn their divided interests, for and against themselves for the verification of a lye, so if they would have done it, they could not have done it without reproof of their own parties, who would have been glad by the discovery onely to disgrace the whole story; but if the report of honest and just men so reputed, may be questioned for matter of fact, or may not be accounted sufficient to make faith when there is no pretence of men to the contrary, besides that we can have no story transmitted to us, no records kept, no acts of Courts, no narratives of the days of old, no traditions of our Fathers; so there could not be left in nature any usual instrument whereby God could after the manner of men declare his own will to us, but either we should never know the will of heaven upon earth, or it must be that God must not onely tell it *once* but *always*, and not onely *always to some men*, but *always to all men*; and then as there would be no use of history, or the honesty of men, and their faithfulness in telling any act of God in declaration of his will, so there would be perpetual necessity of miracles, and we could not serve God directly with our understanding, for there would be no such thing as faith, that is, of assent without conviction of understanding, and we could not please God with beleeving, because there would be in it nothing of the will, nothing of love and choyce; and that faith which is, would be like that of *Thomas*, to beleeve what we see or hear, and God should not at all govern upon earth unless he did continually come himself: for thus, all Government, all Teachers, all Apostles, all Messengers would be needless, because they could not shew to the eye what they told to the ears

of

of men; And it might as well be disbeleeved in all Courts and by all Princes, that this was not the letter of a Prince, or the act of a man, or the writing of his hand, and so all humane entercourse must cease, and all senses but the eye be useless as to this affair, or else to the ear all voyces must be strangers but the principal, if I say, no reports shall make faith: But it is certain, that when these voyces were sent from heaven and heard upon earth they prevailed amongst many that heard them not, and disciples were multiplied upon such accounts, or else it must be that none that did hear them could be beleeved by any of their friends and neighbours; for if they were, the voyce was as effective at the reflex and rebound as in the direct emission, and could prevail with them that beleeved their brother or their friend, as certainly as with them that beleeved their own ears and eyes.

14. I need not speak of the vast numbers of miracles which he wrought; miracles which were not more demonstrations of his power then of his mercy; for they had nothing of pompousness and ostentation, but infinitely of charity and mercy, and that *permanent* and *lasting* and *often*: he opened the eyes of the blinde, he made the crooked straight, he made the weak strong, he cured fevers with the touch of his hand, and an issue of blood with the hem of his garment, and sore eyes with the spittle of his mouth and the clay of the earth; he multiplied the loaves and fishes, he raised the dead to life, a *young maiden*, the widows son of *Naim*, and *Lazarus*, and cast out Devils by the word of his mouth, which he could never doe but by the power of God. For Satan does not cast out Satan, nor a house fight against it self, if it means to stand long, and the Devil could not help Jesus, because the holy Jesus taught men virtue, called them from the worshipping Devils, taught them to resist the Devil, to lay aside all those abominable idolatries by which the Devil doth rule in the hearts of men: he taught men to love God, to fly from temptations to sin, to hate and avoid all those things of which the Devil is guilty, for Christianity forbids pride, envy, malice, lying, and yet affirms that the Devil is proud, envious, malicious, and the Father of lies; and therefore where ever Christianity prevails, the Devil is not worshipped, and therefore he that can think that a man without the power of God could overturn the Devils principles, cross his designs, weaken his strengths, baffle him in his policies, befool him and turn him out of possession,& make him open his own mouth against himself as he did often, and confess himself conquered by Jesus and tormented, as the Oracle did to *Augustus Cæsar*, and the Devil to *Jesus* himself, he I say, that thinks a meer man can doe this, knows not the weaknesses of a man, nor the power of an Angel; but he that thinks this could be done by compact, and by consent of the Devil, must think him to be an Intelligence without understanding, a power without force, a fool and a sot to assist a power against himself, and to persecute the power he did assist, to stirre up the world to destroy the Christians, whose Master and Lord he did assist to destroy himself; and when we read that *Porphyrius* an Heathen, a professed enemy to Christianity, did say, Ἰησοῦ πεφημίσθαι τὰς θεῶν δημοσίας ὠφελείας οὐκ ἠθέλειν, that since Jesus was worshipped, the gods could help no man, that is, the gods which they worshipped; the poor baffled enervated Dæmons: He must either think that the Devils are as foolish as they are weak, or else that they did nothing towards this declination of their power; and therefore that they suffer it by a power higher then themselves, that is, by the power of God in the hand of Jesus.

Euseb. lib. 5. c. 1. præp. Evang.

15. But besides that God gave testimony from heaven concerning him; he also

alſo gave this teſtimony of himſelf to have come from God, becauſe that *he did Gods will*; for he that is a good man and lives by the Laws of God and of his Nation, a life innocent and ſimple, prudent and wiſe, holy and ſpotleſs, unreproved and unſuſpected, he is certainly by all wiſe men ſaid in a good ſenſe to be the ſon of God, but he who does well and ſpeaks well, and calls all men to glorify and ſerve God, and ſerves no ends but of holineſs and charity, of wiſdome of hearts and reformation of manners, this man carries great authority in his ſayings, and ought to prevail with good men in good things, for good ends, which is all that is here required. But his nature was ſo ſweet, his manners ſo humble, his words ſo wiſe and compoſed, his comportment ſo grave and winning, his anſwers ſo ſeaſonable, his queſtions ſo deep, his reproof ſo ſevere and charitable, his pity ſo great and merciful, his preachings ſo full of reaſon and holineſs, of weight and authority, his converſation ſo uſeful and beneficent, his poverty great but his alms frequent, his family ſo holy and religious, his and their imployment ſo profitable, his meekneſs ſo incomparable, his paſſions without difference, ſave onely where zeal or pity carried him on to worthy and apt expreſſions a perſon that never laughed, but often wept in a ſenſe of the calamities of others; he loved every man and hated no man, he gave counſel to the doubtful, and inſtructed the ignorant, he bound up the broken hearts, and ſtrengthened the feeble knees, he releeved the poor, and converted the ſinners, he deſpiſed none that came to him for relief, and as for thoſe that did not he went to them; he took all occaſions of mercy that were offered him, and went abroad for more; he ſpent his days in Preaching and healing, and his nights in Prayers and converſation with God, he was obedient to Laws and ſubject to Princes, though he was the Prince of *Judea* in right of his Mother, and of all the world in right of his Father; the people followed him, but he made no conventions, and when they were made, he ſuffered no tumults, when they would have made him a King he withdrew himſelf, when he knew they would put him to death he offered himſelf; he knew mens hearts, and converſed ſecretly, and gave anſwer to their thoughts and prevented their queſtions: he would work a miracle rather then give offence, and yet ſuffer every offence rather then ſee God his Father diſhonoured, he exactly kept the Law of *Moſes*, to which he came to put a period, and yet choſe to ſignify his purpoſe onely by doing acts of mercy upon their Sabbath, doing nothing which they could call a breach of a Commandement, but healing ſick people, a charity which themſelves would doe to beaſts, and yet they were angry at him for doing it to their brethren: In all his life, and in all his converſation with his Nation, he was innocent as an Angel of light, and when by the greatneſs of his worth, and the ſeverity of his doctrine, and the charity of his miracles, and the noiſes of the people, and his immenſe fame in all that part of the world, and the multitude of his diſciples and the authority of his Sermons, and his free reproof of their hypocriſy, and his diſcovery of their falſe doctrines and weak traditions, he had branded the reputation of the vicious rulers of the people, and they reſolved to put him to death, they who had the biggeſt malice in the world, and the weakeſt accuſations were forced to ſupply their want of articles againſt him by making truth to be his fault; and his office to be his crime, and his open confeſſion of what was asked him to be his article of condemnation, and yet after all this they could not perſwade the competent Judge to condemne him, or to finde him guilty of any fault, and therefore they were forced to threaten him with *Cæſars* name, againſt whom then they would pretend him to be an enemy, though in their charge they neither proved, nor indeed

deed laid it againſt him, and yet to whatſoever they objected he made no return, but his ſilence and his innocence were remarkable and evident, without labour and reply, and needed no more argument then the Sun needs an advocate to prove that he is the brighteſt ſtarre in the firmament.

16. Well, ſo it was, they crucified him, and when they did they did as much put out the eye of heaven as deſtroy the Son of God; for when with an incomparable ſweetneſs, and a patience exemplar to all ages of ſufferers, he endured affronts, examinations, ſcorns, inſolencies of rude ungentle Tradeſmen, cruel whippings, injurious, unjuſt and unreaſonable uſages from thoſe whom he obliged by all the arts of endearment and offers of the biggeſt kindneſs, at laſt he went to death as to the work which God appointed him that he might become the worlds ſacrifice, and the great example of holineſs, and the inſtance of repreſenting by what way the world was to be made happy [even by ſufferings and ſo entring into heaven] that he might (I ſay) become the Saviour of his Enemies, and the elder Brother to his friends, and the Lord of Glory, and the fountain of its emanation. Then it was that God gave new teſtimonies from heaven; The Sun was eclipſed all the while he was upon the Croſs, and yet the Moon was in the full; that is, he loſt his light, not becauſe any thing in nature did inveſt him, but becauſe the God of nature (as a Heathen at that very time confeſſed, who yet ſaw nothing of this ſad iniquity) did ſuffer. The rocks did rend, the veil of the Temple divided of it ſelf and opened the incloſures, and diſparked the Sanctuary, and made it pervious to the Gentiles eye; the dead aroſe, and appeared in *Jeruſalem* to their friends, the Centurion and divers of the people ſmote their hearts, and were by theſe ſtrange indications convinced that he was the Son of God. His garments were parted, and lots caſt upon his inward coat, they gave him vinegar and gall to drink, they brake not a bone of him, but they pierced his ſide with a ſpear, looking upon him whom they had pierced; according to the Prophecies of him, which were ſo clear and deſcended to minutes and circumſtances of his paſſion, that there was nothing left by which they could doubt whether this were he or no who was to come into the world: But after all this, that all might be finally verified and no ſcruple left, after three days burial, a great ſtone being rolled to the face of the grave, and the ſtone ſealed, and a guard of Souldiers placed about it, he aroſe from the grave, and for forty days together converſed with his followers and Diſciples, and beyond all ſuſpicion was ſeen of 500. Brethren at once, which is a number too great to give their conſent and teſtimony to a lye, and it being ſo publickly and confidently affirmed at the very time it was done, and for ever after urged by all Chriſtians, uſed as the moſt mighty demonſtration, proclaimed, preached, talked of, even upbraided to the gainſayers, affirmed by eye-witneſſes, perſwaded to the kinred and friends and the relatives and companions of all thoſe 500. perſons who were eye-witneſſes, it is infinitely removed from a reaſonable ſuſpicion; and at the end of thoſe days was taken up into heaven in the ſight of many of them, as *Elias* was in the preſence of *Eliſha*.

17. Now he of whom all theſe things are true, muſt needs be more then a meer man, and that they were true was affirmed by very many eye-witneſſes, men who were innocent, plain men, men that had no bad ends to ſerve, men that looked for no preferment by the thing in this life; men to whom their Maſter told they were to expect not Crowns and Scepters, not praiſe of men or wealthy poſſeſſions, not power and eaſe, but a voluntary caſting away care and

and attendance upon secular affairs that they might attend their Ministery; poverty and prisons, trouble and vexation persecution and labour, whippings and banishment, bonds and death, and for a reward they must stay till a good day came, but that was not to be at all in this world; and when the day of restitution and recompence should come, they should never know till it came, but upon the hope of this and the faith of Jesus, and the word of God so taught, so consigned, they must rely wholly and for ever. Now let it be considered how could matters of fact be proved better? and how could this be any thing, but such as to rely upon matters of fact? what greater certainty can we have of any thing that was ever done which we saw not, or heard not, but by the report of wise and honest persons? especially since they were such whose life and breeding was so far from ambition and pompousness that as they could not naturally and reasonably hope for any great number of Proselytes, so the same that could be hop'd for amongst them, as it must be a matter of their own procuring, and consequently uncertain, so it must needs be very inconsiderable, not fit to outweigh the danger and the loss, nor yet at all valuable by them whose education and pretences were against it? These we have plentifully. But if these men are numerous and united, it is more. Then we have more; For so many did affirm these things which they saw and heard, that thousands of people were convinced of the truth of them: But then if these men offer their oath, it is yet more, but yet not so much as we have, for they sealed those things with their blood; they gave their life for a testimony; and what reward can any man expect, if he gives his life for a lye? who shall make him recompence, or what can tempt him to doe it knowingly? but after all, it is to be remembred, that as God hates lying, so he hates incredulity; as we must not beleeve a lye, so neither stop up our eyes and ears against truth; and what we doe every minute of our lives in matters of little and of great concernment, if we refuse to doe in our Religion which yet is to be conducted as other humane affairs are, by humane instruments and arguments of perswasion proper to the nature of the thing, it is an obstinacy that is as contrary to humane reason as it is to Divine faith.

18. These things relate to the *person* of the *holy Jesus*, and prove sufficiently that it was *extraordinary*, that it was *divine*, that *God was with him*, that his power wrought in him; and therefore that it was his will which Jesus taught, and God signed. But then if nothing of all this had been, yet even the doctrine it self proves it self *Divine* and to come from God.

19. For it is a Doctrine perfective of humane nature, that teaches us to love God and to love one another, to hurt no man, and to doe good to every man, it propines to us the noblest, the highest, and the bravest pleasures of the world; the joys of charity, the rest of innocence, the peace of quiet spirits, the wealth of beneficence, and forbids us onely to be beasts and to be Devils, it allows all that God and nature intended, and onely restrains the excrescencies of nature, and forbids us to take pleasure in that which is the onely entertainment of Devils, in murders and revenges, malice and spiteful words and actions; it permits corporal pleasures where they can best minister to health and societies, to conservation of families and honour of Communities, it teaches men to keep their words that themselves may be secured in all their just interests, and to doe good to others that good may be done to them; it forbids biting one another that we may not be devoured by one another; and commands obedience to superiours, that we may not be ruined in confusions; it combines

bines Governments, and confirms all good Laws, and makes peace, and oppoſes and prevents warres where they are not juſt, and where they are not neceſſary. It is a Religion that is life and ſpirit, not conſiſting in ceremonies and external amuſements, but in the ſervices of the heart, and the real fruit of lips and hands, that is, of good words and good deeds, it bids us to doe that to God which is agreeable to his excellencies, that is, worſhip him with the beſt thing we have, and make all things elſe miniſter to it; it bids us doe that to our neighbour, by which he may be better: it is the perfection of the natural Law, and agreeable to our natural neceſſities, and promotes our natural ends and deſigns: it does not deſtroy reaſon, but inſtructs it in very many things, and complies with it in all, it hath in it both *heat* and *light*, and is not more effectual then it is beauteous; it promiſes every thing that we can deſire, and yet promiſes nothing but what it does effect; it proclaims warre againſt all vices, and generally does command every vertue; it teaches us with eaſe to mortify thoſe affections which reaſon durſt ſcarce reprove, becauſe ſhe hath not ſtrength enough to conquer, and it does create in us thoſe vertues which reaſon of her ſelf never knew, and after they are known, could never approve ſufficiently: it is a doctrine in which nothing is ſuperfluous or burdenſome, nor yet is there any thing wanting which can procure happineſs to mankinde, or by which God can be glorified: and if wiſdome, and mercy, and juſtice, and ſimplicity, and holineſs, and purity, and meekneſs, and contentedneſs, and charity, be images of God and rays of Divinity, then that Doctrine in which all theſe ſhine ſo glorioufly, and in which nothing elſe is ingredient muſt needs be from God; and that all this is true in the Doctrine of Jeſus needs no other probation but the reading the words.

20. For that the words of Jeſus are contained in the Goſpels, that is, in the writings of them, who were eye-witneſſes and ear-witneſſes of the actions and Sermons of Jeſus, is not at all to be doubted; for in every ſect we beleeve their own records of Doctrine and inſtitution; for it is madneſs to ſuppoſe the Chriſtians to pretend to be ſervants of the Laws of Jeſus, and yet to make a Law of their own which he made not: no man doubts but that the Alcoran is the Law of Mahomet, that the old Teſtament contains the Religion of the Jews; and the authority of theſe Books is proved by all the arguments of the Religion, for all the arguments perſwading to the Religion are intended to prove no other then is contained in thoſe Books; and theſe having been for 1500. years and more, received abſolutely by all Chriſtian aſſemblies, if any man ſhall offer to make a queſtion of their authority, he muſt declare his reaſons, for the diſciples of the Religion have ſufficient preſumption, ſecurity and poſſeſſion, till they can be reaſonably diſturb'd; but that now they can never be is infinitely certain, becauſe we have a long, immemorial, univerſal tradition that theſe Books were written in thoſe times, by thoſe men whoſe Names they bear, they were accepted by all Churches at the very firſt notice, except ſome few of the later, which were firſt received by ſome Churches, and then conſented to by all, they were acknowledged by the ſame, and by the next age for genuine, their authority publiſhed, their words cited, appeals made to them in all queſtions of Religion, becauſe it was known and confeſſed that they wrote nothing but that they knew, ſo that they were not deceived; and to ſay they would lie muſt be made to appear by ſomething extrinſecal to this inquiry, and was never ſo much as plauſibly pretended by any Adverſaries, and it being a matter of another mans will, muſt be declared by actions, or not at all. But beſides the men that wrote them were to be beleeved becauſe they did Miracles, they wrote Prophecies, which are verified by the

the event, persons were cured at their Sepulchres, a thing so famous that it was confessed even by the enemies of the Religion: and after all, that which the world ought to rely upon, is the wisdome and the providence and the goodness of God; all which it concerned to take care that the Religion, which himself so adorned and proved by miracles and mighty signs, should not be lost, nor any false writings be obtruded in stead of true, lest without our fault the will of God become impossible to be obeyed. But to return to the thing: All those excellent things which singly did make famous so many sects of Philosophers, and remarked so many Princes of their sects, all them united, and many more which their eyes ὄμματα νυκτερίδων dark and dim could not see, are heaped together in this systeme of wisdome and holiness. Here are plain precepts full of deepest mystery; here are the measures of holiness and approaches to God describ'd; obedience and conformity, mortification of the body, and elevations of the spirit, abstractions from earth, and Arts of society and union with heaven, degrees of excellencies, and tendences to perfection, imitations of God, and conversations with him; these are the heights and descents, upon the plain grounds of natural reason, and natural religion, for there is nothing commanded but what our reason by nature ought to choose, and yet nothing of natural reason taught but what is heightned and made more perfect by the Spirit of God; and when there is any thing in the Religion, that is against flesh and blood, it is onely when flesh and blood is against us, and against reason, when flesh and blood either would hinder us from great felicity, or bring us into great misery: To conclude, it is such a Law, that nothing can hinder men to receive and entertain, but a pertinacious baseness and love to vice, and none can receive it but those who resolve to be good and excellent; and if the holy Jesus had come into the world with less splendor of power and mighty demonstrations, yet even the excellency of what he taught, makes him alone fit to be the Master of the world.

21. But then let us consider what this excellent person did effect, and with what instruments he brought so great things to pass. He was to put a period to the Rites of *Moses*, and the Religion of the Temple, of which the Jews were zealous even unto pertinacy; to reform the manners of all mankinde, to confound the wisdome of the Greeks, to break in peeces the power of the Devil, to destroy the worship of all false Gods, to pull down their Oracles, and change their Laws, and by principles wise and holy to reform the false discourses of the world. But see what was to be taught, A Trinity in the Unity of the Godhead, τρία ἓν καὶ ἓν τρία, that is the Christian Arithmetick, *Three are one and one are three*, so *Lucian* in his *Philopatris*, or some other derides the Christian Doctrine; See their Philosophy, *Ex nihilo nihil fit.* No: *Ex nihilo omnia*, all things are made of nothing; and a *Man-God* and a *God-Man*, the same person finite and infinite, born in time, and yet from all eternity the Son of God, but yet born of a Woman, and she a Maid, but yet a Mother; resurrection of the dead, reunion of soul and body; this was part of the Christian Physicks or their natural Philosophy. But then certainly their moral was easy and delicious. It is so indeed, but not to flesh and blood, whose appetites it pretends to regulate or to destroy, to restrain or else to mortify: *fasting* and *penance*, and *humility*, *loving our enemies*, *restitution of injuries*, and *self-denial*, and *taking up the Cross*, and *losing all our goods*, and *giving our life for Jesus*: As the other was hard to beleeve, so this is as hard to doe. But for whom and under whose conduct was all this to be beleeved, and all this to be done, and all this to be suffered? surely for some glorious and mighty Prince, whose

ſplendor as far outſhines the Romane Empire as the jewels of *Cleopatra* outſhined the ſwadling clothes of the Babe at *Bethlehem*. No it was not ſo neither. For all this was for *Jeſus* whom his followers preached; a poor Babe born in a ſtable, the ſon of a Carpenter, cradled in a cratch, ſwadled in poor clouts; it was for him whom they indeed call'd a God, but yet whom all the world knew, and they themſelves ſaid, was whip'd at a poſt, nailed to a Croſs; he fell under the malice of the Jews his Countrymen, and the power of his Romane Lords, a cheap and a pitiful ſacrifice without beauty and without ſplendor. The deſign is great, but does not yet ſeem poſſible; But therefore let us ſee what inſtruments the Holy Jeſus choſe to effect theſe ſo mighty changes, to perſwade ſo many propoſitions, to endear ſo great ſufferings, to overcome ſo great enemies, to maſter ſo many impoſſibilities which *this* Doctrine and *this* Law from *this* Maſter were ſure to meet withall.

22. Here, here it is that the Divinity of the power is proclaimed. When a man goes to warre he raiſes as great an Army as he can to out-number his Enemy, but when God fights, three hundred men that lap like a dogge are ſufficient; nay one word can diſſolve the greateſt army. He that means to effect any thing muſt have means of his own proportionable, and if they be not, he muſt fail, or derive them from the mighty. See then with what inſtruments the holy Jeſus ſets upon this great reformation of the world. Twelve men of obſcure and poor birth, of contemptible Trades and quality, without learning, without breeding; theſe men were ſent into the midſt of a knowing and wiſe world to diſpute with the moſt famous Philoſophers of *Greece*, to out-wit all the learning of *Athens*, to out-preach all the *Roman* Orators; to introduce into a newly ſetled Empire, which would be impatient of novelties and change, ſuch a change as muſt deſtroy all their Temples, or remove thence all their gods: againſt which change all the zeal of the world, and all the paſſions, and all the ſeeming pretences which they could make, muſt needs be violently oppoſed: a change that introduced new Laws, and cauſed them to reverſe the old, to change that Religion under which their Fathers long did proſper, and under which the *Romane* Empire obtained ſo great a grandeur, for a Religion which in appearance was ſilly and humble, meek and peaceable, not apt indeed to doe harm, but expoſing men to all the harm in the world, abating their courage, blunting their ſwords, teaching peace and unactiveneſs, and making the Souldiers arms in a manner uſeleſs, and untying their military girdle; a Religion which contradicted their reaſons of State, and erected new Judicatories, and made the *Romane* Courts to be ſilent and without cauſes; a Religion that gave countenance to the poor and pitiful (but in a time when riches were adored, & ambition eſteemed the greateſt nobleneſs, and pleaſure thought to be the chiefeſt good) it brought no peculiar bleſſing to the rich or mighty, unleſs they would become poor and humble in ſome reall ſenſe or other; a Religion that would change the face of things, and would alſo pierce into the ſecrets of the ſoul, and unravel all the intrigues of hearts, and reform all evil manners, and break vile habits into gentleneſs and counſel: that ſuch a Religion in ſuch a time, preached by ſuch mean perſons, ſhould triumph over the Philoſophy of the world, and the arguments of the ſubtle, and the Sermons of the eloquent, and the power of Princes, and the intereſt of States, and the inclinations of nature, and the blindneſs of zeal, and the force of cuſtome, and the pleaſures of ſin, and the buſie Arts of the Devil, that is, againſt wit, and power, and money, and Religion, and wilfulneſs, and fame, and Empire, which are all the things in the world that can make a thing impoſſible; this I ſay could not be by the

proper

proper force of ſuch inſtruments; for no man can ſpan heaven with an inſidus palm, nor govern wiſe Empires with Diagrams. It were impudence to ſend a footman to command *Cæſar* to lay down his arms, to diſband his legions, and throw himſelf into *Tyber*, or keep a Tavern next to *Pompey* Theatre; but if a ſober man ſhall ſtand alone unarm'd, undefended, or unprovided, and ſhall tell that he will make the Sun ſtand ſtill, or remove a mountain, or reduce *Xerxes* his Army to the ſcantling of a ſingle Troop, he that beleeves he will and can doe this, muſt beleeve he does it by a higher power than he can yet perceive, and ſo it was in the preſent tranſaction. For that the holy Jeſus made inviſible powers to doe him viſible honours, that his Apoſtles hunted the Demons from their Tripods, their Navels, their Dens, their hollow Pipes, their Temples, and their Altars, that he made the Oracles ſilent, as *Lucian*, *Porphyrie*, *Celſus*, and other Heathens confeſs; that againſt the order of new things, which let them be never ſo profitable or good doe yet ſuffer reproach and cannot prevail unleſs they commence in a time of advantage and favour, yet that this ſhould flouriſh like the Palm by preſſure, grow glorious by oppoſition, thrive by perſecution, and was demonſtrated by objections, argues a higher cauſe then the immediate inſtrument; now how this higher cauſe did intervene is viſible and notorious: The Apoſtles were not learned, but the holy Jeſus promiſed that he would ſend down wiſdome from above, from the Father of ſpirits; they had no power, but they ſhould be inveſted with power from on high. they were *ignorant* and *timorous*, but he would make them *learned* and *confident*, and ſo he did: he promiſed that in a few days he would ſend the holy Ghoſt upon them, and he did ſo, after ten days they felt and ſaw glorious immiſſion from heaven, lights of movable fire ſitting upon their heads, and that light did illuminate their hearts, and the mighty ruſhing winde inſpired them with a power of ſpeaking divers languages, and brought to their remembrances all that Jeſus did and taught, and made them wiſe to conduct ſouls, and bold to venture, and prudent to adviſe, and powerful to doe miracles, and witty to convince gainſayers, and hugely inſtructed in the Scriptures, and gave them the ſpirit of Government, and the ſpirit of Prophecy. This thing was ſo publick that at the firſt notice of it three thouſand ſouls were converted on that very day, at the very time when it was done; for it was certainly a viſible demonſtration of an inviſible power, that ignorant perſons who were never taught, ſhould in an inſtant ſpeak all the Languages of the Romane Empire; and indeed this thing was ſo neceſſary to be ſo, and ſo certain that it was ſo, ſo publick and ſo evident, and ſo reaſonable, and ſo uſeful, that it is not eaſy to ſay whether it was the indication of a greater power, or a greater wiſdome; and now the means was proportionable enough to the biggeſt end; without learning they could not confute the learned world; but therefore God became their Teacher: without power they could not break the Devils violence, but therefore God gave them power; without courage they could not conteſt againſt all the violence of the Jews and Gentiles; but therefore God was their ſtrength and gave them fortitude; without great caution and providence they could not avoid the traps of crafty Perſecutors, but therefore God gave them caution, and made them provident, and as *Beſaleel* and *Aholiab* received the ſpirit of God, the ſpirit of underſtanding to enable them to work excellently in the Tabernacle, ſo had the Apoſtles to make them wiſe for the work of God and the Miniſteries of this Diviner Tabernacle, *which God pitched, not man*. Immediately upon this, the Apoſtles to make a fulneſs of demonſtration and an undeniable conviction gave the ſpirit to others alſo, to *Jews* and *Gentiles* and to the men of *Samaria*, and they ſpake with Tongues and prophe-

fied, then they preached to all Nations, and endured all perſecutions, and cured all diſeaſes, and raiſed the dead to life, and were brought before Tribunals, and confeſſed the Name of Jeſus, and convinced the blaſphemous Jews out of their own Prophets, and not onely prevailed upon women and weak men, but even upon the braveſt and wiſeſt. All the diſciples of *John* the *Baptiſt*, the *Nazarens* and *Ebionites*, *Nicodemus* and *Joſeph* of *Arimathea*, *Sergius* the *Preſident*, *Dionyſius* an *Athenian Judge*, and *Polycarpus*, *Juſtinus* and *Irenæus*, *Athenagoras* and *Origen*, *Tertullian* and *Clemens of Alexandria*, who could not be ſuch fools as upon a matter not certainly true but probably falſe, to unravel their former principles, and to change their liberty for a Priſon, wealth for poverty, honour for diſreputation, life for death, if by ſuch exchange they had not been ſecured of truth and holineſs and the will of God.

23. But above all theſe was *Saul*, a bold and a witty, a zealous and learned young man, who going with Letters to perſecute the Chriſtians of *Damaſcus*, was by a light from heaven called from his furious march, reproved by Gods Angel for perſecuting the cauſe of Jeſus, was ſent to the City, baptized by a Chriſtian Miniſter, inſtructed and ſent abroad, and he became the prodigy of the world for learning and zeal, for preaching and writing, for labour and ſufference, for government and wiſdome; he was admitted to ſee the holy Jeſus after the Lord was taken into heaven, he was taken up into Paradiſe, he converſed with Angels, he ſaw unſpeakable rayes of glory, and beſides that himſelf ſaid it, who had no reaſon to lie, who would get nothing by it here but a conjugation of troubles, and who ſhould get nothing by it hereafter if it were falſe; beſides this I ſay, that he did all thoſe acts of zeal and obedience for the promotion of the Religion does demonſtrate he had reaſon extraordinary for ſo ſudden a change, ſo ſtrange a labour, ſo frequent and incomparable ſufferings: and therefore as he did and ſuffered ſo much upon ſuch glorious motives, ſo he ſpared not to publiſh it to all the world, he ſpake it to Kings and Princes, he told it to the envious Jews; he had partners of his journey who were witneſſes of the miraculous accident, and in his publication he urged the notoriouſneſs of the fact, as a thing not feigned, not private, but done at noon day under the Teſt of competent perſons, and it was a thing that proved it ſelf, for it was effective of a *preſent*, a *great*, and a *permanent* change.

24. But now it is no new wonder but a purſuance of the ſame conjugation of great and Divine things, that the Fame and Religion of Jeſus was with ſo incredible a ſwiftneſs ſcattered over the face of the habitable world, from one end of the earth unto the other; it filled all *Aſia* immediately, it paſſed preſently to *Europe*, and to the furtheſt *Africans*, and all the way it went it told nothing but an holy and an humble ſtory, that he who came to bring it into the world, died an ignominious death, and yet this death did not take away their courage, but added much: for they could not fear death for that Maſter, whom they knew to have for their ſakes ſuffered death, and came to life again. But now infinite numbers of perſons of all ſexes, and all ages, and all Countries came in to the *Holy Crucifix*, and he that was crucified in the reign of *Tiberius*, was in the time of *Nero*, even in *Rome* it ſelf, and in *Nero's* family by many perſons eſteem'd for a God; and it was upon publick record that he was ſo acknowledged; and this was by a Chriſtian, *Juſtin Martyr*, urged to the Senate, and to the Emperours themſelves, who if it had been otherwiſe could eaſily have confuted the bold allegation of the Chriſtian, who yet did die for that Jeſus who was ſo ſpeedily reputed for a God; the Croſs was worn upon breſts,

printed

pri ted in the air, drawn upon fore-heads, carried on banners, put upon crowns Imperial; and yet the Christians were sought for to punishments, and exquisite punishments sought forth for them; their goods were confiscate, their names o ious, pr sons were their houses, and so many kinds of tortures invented for them that *Domitius Ulpianus* hath spent seven Books in describing the variety of tortures the poor Christian was put to at his first appearing. and yet in despite of all this, and ten thousand other objections and impossibilities, whatsoever was for them made the Religion grow, and whatsoever was against them made it grow; if they had peace, the Religion was prosperous, if they had persecution, it was still prosperous: if Princes favoured them the world came in because the Christians lived holily; if Princes were incensed, the world came in because the Christians died bravely. They sought for death with greedines, they desired to be grinded in the teeth of Lions, and with joy they beheld the wheels and the bended trees, the racks and the gibbets, the fires and the burning irons, which were like the chair of *Elias* to them, instruments to carry them to heaven, into the bosome of their beloved Jesus.

25. Who would not acknowledge the Divinity of this person, and the excellency of this institution, that should see infants to weary the hands of Hangmen for the testimony of Jesus? and wise men preach this doctrine for no other visible reward, but shame and death, poverty and banishment? and Hangmen converted by the blood of Martyrs springing upon their faces which their impious hands and cords have strained through their flesh? who would not have confessed the honour of Jesus, when he should see miracles done at the Tombs of Martyrs, and Devils tremble at the mention of the name of Jesus, and the world running to the honour of the poor *Nazaren*, and Kings and Queens kissing the feet of the poor servants of Jesus? Could a Jew Fisherman and a Publican effect all this for the son of a poor Maiden of *Judæa*? can we suppose all the world, or so great a part of mankinde can consent by chance, or suffer such changes for nothing? or for any thing less then this? The son of the poor Maiden was the son of God, and the Fishermen spake by a Divine spirit, and they catched the world with holines and miracles, with wisdome and power bigger then the strength of all the Roman Legions. And what can be added to all this, but this thing alone to prove the Divinity of Jesus? He is a God, or at least is taught by God who can foretel future contingencies; and so did the holy Jesus, and so did his Disciples.

26. Our blessed Lord while he was alive foretold that after his death his Religion should flourish more then when he was alive: He foretold Persecutions to his Disciples; he foretold the mission of the holy Ghost to be in a very few days after his Ascension, which within ten days came to pass; he prophesied that the fact of *Mary Magdalen* in anointing the head and feet of her Lord, should be publick and known as the Gospel it self, and spoken of in the same place; he foretold the destruction of *Jerusalem* and the signs of its approach, and that it should be by Warre, and particularly after the manner of Prophets symbolically, nam'd the Nation should doe it; pointing out the Roman Eagles, he foretold his death, and the manner of it, and plainly before-hand published his Resurrection, and told them it should be the sign to that generation, *viz.* the great argument to prove him to be the Christ, he prophesied that there should arise false Christs after him, and it came to pass to the extreme great calamity of the Nation; and lastly, he foretold that his beloved Disciple S. *John* should tarry upon the earth till his coming again, that is, to his coming

to Judgement upon *Jeruſalem*; and that his Religion ſhould be preached to the Gentiles, that it ſhould be ſcattered over all the world, and be received by all Nations, that it ſhould ſtay upon the face of the earth till his laſt coming to judge all the world, and that *the gates of hell ſhould not be able to prevail againſt his Church*; which Prophecie is made good thus long, till this day, and is as a continual argument to juſtify the Divinity of the Author: The continuance of the Religion helps to continue it, for it proves that it came from God, who fore old that it ſhould continue; and therefore it muſt continue becauſe it came from God, and therefore it came from God becauſe it does and ſhall for ever continue according to the word of the holy Jeſus.

27. But after our bleſſed Lord was entred into glory, the diſciples alſo were Prophets; *Agabus* foretold the dearth that was to be in the Romane Empire in the days of *Claudius Cæſar*, and that S. *Paul* ſhould be bound at *Jeruſalem*; S. *Paul* foretold the entring in of Hereticks into *Aſia* after his departure; and he and S. *Peter* and S *Jude* and generally the reſt of the Apoſtles had two great predictions, which they uſed not onely as a verification of the doctrine of Jeſus, but as a means to ſtrengthen the hearts of the Diſciples who were ſo broken with perſecution: The one was, that there ſhould ariſe a Sect of vile men who ſhould be enemies to Religion and Government, and cauſe a great Apoſtacy, which happened notoriouſly in the Sect of the Gnoſticks, which thoſe three Apoſtles and S. *John* notoriouſly and plainly doe deſcribe: And the other was, that although the Jewiſh Nation did mightily oppoſe the Religion, it ſhould be but for a while, for they ſhould be deſtroyed in a ſhort time, and their Nation made extremely miſerable; but for the Chriſtians, if they would fly from *Jeruſalem* and goe to *Pella*, there ſhould not a hair of their head periſh: the verification of this Prophecie the Chriſtians extremely long'd for and wondred it ſtaid ſo long, and began to be troubled at the delay, and ſuſpected all was not well, when the great proof of their Religion was not verified; and while they were in thoughts of heart concerning it, the ſad *Cataclyſis* did come, and ſwept away 1100000. of the Nation and from that day forward the Nation was broken in peeces with intolerable calamities, they are ſcattered over the face of the earth, and are a vagabond Nation, but yet like *oyle* in a veſſel of wine, broken into bubbles but kept in their own circles, and they ſhall never be an united people till they are ſervants of the holy Jeſus; but ſhall remain without Prieſt or Temple, without Altar or Sacrifice, without City or Country, without the land of Promiſe, or the promiſe of a bleſſing, till our Jeſus is their high Prieſt and the Shepherd to gather them into his fold: And this very thing is a mighty demonſtration againſt the Jews by their own Prophets, for when *Iſaiah* and *Jeremiah*, and *Malachi* had Propheſied the rejection of the Jews and the calling of the Gentiles, and the change of the old Law, and the introduction of a new by the Meſſias, that this was he, was therefore certain, becauſe he taught the world a new Law, and preſently after the publication of this, the old was abrogate, and not onely went into deſuetude, but into a total abolition among all the world; and for thoſe of the remnant of the ſcattered Jews who obſtinately blaſpheme, the Law is become impoſſible to them, and they placed in ſuch circumſtances that they need not diſpute concerning its obligation; for it being *external* and *corporal*, *ritual* and at laſt made alſo *local*, when the circumſtances are impoſſible, the Law that was wholly ceremonial and circumſtantial muſt needs paſs away, and when they have loſt their Prieſthood, they cannot retain the Law, as no man takes care to have his beard ſhaved when his head is off.

And

28. And it is a wonder to conſider how the anger of God is gone out upon that miſerable people, and that ſo great a blindneſs is fallen upon them, it being evident and notorious, that the old Teſtament was nothing but a ſhadow and umbrage of the new, that the Prophecies of that are plainly verified in this; that all the predictions of the Meſſias are moſt undeniably accompliſhed in the perſon of Jeſus Chriſt, ſo that they cannot with any plauſibleneſs or colour be turned any other way, and be applied to any other perſon, although the Jews make illiterate allegations, and prodigious dreams, by which they have fool'd themſelves for 1600. years together, and ſtill hope without reaſon, and are confident without revelation, and purſue a ſhadow while they quit the glorious body; while in the mean time the *Chriſtian* prays for his converſion, and is at reſt in the truth of Jeſus, and hath certain unexpreſſible confidencies and internal lights, clarities of the holy Spirit of God, and loves to the holy Jeſus produc'd in his ſoul, that he will die when he cannot diſpute, and is ſatisfied and he knows not how, and is ſure by comforts, and comforted by the excellency of his beleef, which ſpeaks nothing but holineſs, and light and reaſon, and peace and ſatisfactions infinite, becauſe he is ſure that all the world can be happy if they would live by the Religion of Jeſus, and that neither ſocieties of men nor ſingle perſons can have felicity but by this, and that therefore God who ſo decrees to make men happy, hath alſo decreed that it ſhall for ever be upon the face of the earth, till the earth it ſelf ſhall be no more. *Amen.*

29. Now if againſt this vaſt heap of things any man ſhall but confront the pretences of any other Religion, and ſee how they fail both of reaſon and holineſs, of wonder and Divinity, how they enter by force, and are kept up by humane intereſts, how ignorant and unholy, how unlearned and pitiful are their pretences, the darkneſſes of theſe muſt adde great eminency to the brightneſs of that. For the Jews Religion which came from heaven is therefore not now to be practiſed, becauſe it did come from heaven, and was to expire into the Chriſtian, it being nothing but the image of this perfection; and the Jews needed no other argument but this, that God hath made theirs impoſſible now to be done, for he that ties to Ceremonies and outward uſages, Temples and Altars, Sacrifices and Prieſts, troubleſome and expenſive rites and figures of future ſignification, means that there ſhould be an abode and fixt dwelling, for theſe are not to be done by an ambulatory people; and therefore ſince God hath ſcattered the people into atomes and crumbs of ſociety, without Temple or Prieſt, without Sacrifice or Altar, without *Urim* or *Thummim*, without Prophet or Viſion, even communicating with them no way but by ordinary providence, it is but too evident, that God hath nothing to doe with them in the matter of that Religion, but that it is expired, and no way obligatory to them or pleaſing to him which is become impoſſible to be acted; whereas the Chriſtian Religion is as eternal as the ſoul of a man, and can no more ceaſe then our ſpirits can die, and can worſhip upon mountains and caves, in fields and Churches, in peace and warre, in ſolitude and ſociety, in perſecution and in Sun-ſhine, by night and by day, and be ſolemnized by Clergy and Laity in the eſſential parts of it, and is the perfection of the ſoul, and the higheſt reaſon of man, and the glorification of God.

30. But for the Heathen religions it is evidently to be ſeen, that they are nothing but an abuſe of the natural inclination which all men have to worſhip a God, whom becauſe they know not, they gueſs at in the dark; for that they know there is and ought to be ſomething that hath the care and providence of their

to Judgement upon *Jeruſalem*; and that his Religion ſhould be preached to the Gentiles, that it ſhould be ſcattered over all the world, and be received by all Nations, that it ſhould ſtay upon the face of the earth till his laſt coming to judge all the world, and that *the gates of hell ſhould not be able to prevail againſt his Church*; which Prophecie is made good thus long, till this day, and is as a continual argument to juſtify the Divinity of the Author: The continuance of the Religion helps to continue it, for it proves that it came from God, who fore old that it ſhould continue; and therefore it muſt continue becauſe it came from God, and therefore it came from God becauſe it does and ſhall for ever continue according to the word of the holy Jeſus.

27. But after our bleſſed Lord was entred into glory, the diſciples alſo were Prophets; *Agabus* foretold the dearth that was to be in the Romane Empire in the days of *Claudius Cæſar*, and that S. *Paul* ſhould be bound at *Jeruſalem*; S. *Paul* foretold the entring in of Hereticks into *Aſia* after his departure; and he and S. *Peter* and S *Jude* and generally the reſt of the Apoſtles had two great predictions, which they uſed not onely as a verification of the doctrine of Jeſus, but as a means to ſtrengthen the hearts of the Diſciples who were ſo broken with perſecution: The one was, that there ſhould ariſe a Sect of vile men who ſhould be enemies to Religion and Government, and cauſe a great Apoſtacy, which happened notoriouſly in the Sect of the Gnoſticks, which thoſe three Apoſtles and S. *John* notoriouſly and plainly doe deſcribe: And the other was, that although the Jewiſh Nation did mightily oppoſe the Religion, it ſhould be but for a while, for they ſhould be deſtroyed in a ſhort time, and their Nation made extremely miſerable; but for the Chriſtians, if they would fly from *Jeruſalem* and goe to *Pella*, there ſhould not a hair of their head periſh: the verification of this Prophecie the Chriſtians extremely long'd for and wondred it ſtaid ſo long, and began to be troubled at the delay, and ſuſpected all was not well, when the great proof of their Religion was not verified; and while they were in thoughts of heart concerning it, the ſad *Cataclyſis* did come, and ſwept away 1100000. of the Nation and from that day forward the Nation was broken in peeces with intolerable calamities, they are ſcattered over the face of the earth, and are a vagabond Nation, but yet like *oyle* in a veſſel of wine, broken into bubbles but kept in their own circles, and they ſhall never be an united people till they are ſervants of the holy Jeſus; but ſhall remain without Prieſt or Temple, without Altar or Sacrifice, without City or Country, without the land of Promiſe, or the promiſe of a bleſſing, till our Jeſus is their high Prieſt and the Shepherd to gather them into his fold: And this very thing is a mighty demonſtration againſt the Jews by their own Prophets, for when *Iſaiah* and *Jeremiah*, and *Malachi* had Propheſied the rejection of the Jews and the calling of the Gentiles, and the change of the old Law, and the introduction of a new by the Meſſias, that this was he, was therefore certain, becauſe he taught the world a new Law. and preſently after the publication of this, the old was abrogate, and not onely went into deſuetude, but into a toral abolition among all the world; and for thoſe of the remnant of the ſcattered Jews who obſtinately blaſpheme, the Law is become impoſſible to them, and they placed in ſuch circumſtances that they need not diſpute concerning its obligation; for it being *external* and *corporal*, *ritual* and at laſt made alſo *local*, when the circumſtances are impoſſible, the Law that was wholly ceremonial and circumſtantial muſt needs paſs away, and when they have loſt their Prieſthood, they cannot retain the Law, as no man takes care to have his beard ſhaved when his head is off.

And

28. And it is a wonder to consider how the anger of God is gone out upon that miserable people, and that so great a blindness is fallen upon them, it being evident and notorious, that the old Testament was nothing but a shadow and umbrage of the new, that the Prophecies of that are plainly verified in this; that all the predictions of the Messias are most undeniably accomplished in the person of Jesus Christ, so that they cannot with any plausibleness or colour be turned any other way, and be applied to any other person, although the Jews make illiterate allegations, and prodigious dreams, by which they have fool'd themselves for 1600. years together, and still hope without reason, and are confident without revelation, and pursue a shadow while they quit the glorious body; while in the mean time the *Christian* prays for his conversion, and is at rest in the truth of Jesus, and hath certain unexpressible confidencies and internal lights, claritics of the holy Spirit of God, and loves to the holy Jesus produc'd in his soul, that he will die when he cannot dispute, and is satisfied and he knows not how, and is sure by comforts, and comforted by the excellency of his beleef, which speaks nothing but holiness, and light and reason, and peace and satisfactions infinite, because he is sure that all the world can be happy if they would live by the Religion of Jesus, and that neither societies of men nor single persons can have felicity but by this, and that therefore God who so decrees to make men happy, hath also decreed that it shall for ever be upon the face of the earth, till the earth it self shall be no more. *Amen.*

29. Now if against this vast heap of things any man shall but confront the pretences of any other Religion, and see how they fail both of reason and holiness, of wonder and Divinity, how they enter by force, and are kept up by humane interests, how ignorant and unholy, how unlearned and pitiful are their pretences, the darknesses of these must adde great eminency to the brightness of that. For the Jews Religion which came from heaven is therefore not now to be practised, because it did come from heaven, and was to expire into the Christian, it being nothing but the image of this perfection; and the Jews needed no other argument but this, that God hath made theirs impossible now to be done, for he that ties to Ceremonies and outward usages, Temples and Altars, Sacrifices and Priests, troublesome and expensive rites and figures of future signification, means that there should be an abode and fixt dwelling, for these are not to be done by an ambulatory people; and therefore since God hath scattered the people into atomes and crumbs of society, without Temple or Priest, without Sacrifice or Altar, without *Urim* or *Thummim*, without Prophet or Vision, even communicating with them no way but by ordinary providence, it is but too evident, that God hath nothing to doe with them in the matter of that Religion, but that it is expired, and no way obligatory to them or pleasing to him which is become impossible to be acted; whereas the Christian Religion is as eternal as the soul of a man, and can no more cease then our spirits can die, and can worship upon mountains and caves, in fields and Churches, in peace and warre, in solitude and society, in persecution and in Sun-shine, by night and by day, and be solemnized by Clergy and Laity in the essential parts of it, and is the perfection of the soul, and the highest reason of man, and the glorification of God.

30. But for the Heathen religions it is evidently to be seen, that they are nothing but an abuse of the natural inclination which all men have to worship a God, whom because they know not, they gues at in the dark; for that they know there is and ought to be something that hath the care and providence of their

their affairs. But the body of their Religion is nothing but little arts of Governments, and ſtratagems of Princes and devices to ſecure the Government of new Uſurpers, or to make obedience to the Laws ſure, by being ſacred, and to make the yoke that was not natural, pleaſant by ſomething that is. But yet for the whole body of it who ſees not that their worſhippings could not be ſacred, becauſe they were done by ſomething that is impure, they appeaſed their gods with adulteries and impure mixtures, by ſuch things which *Cato* was aſhamed to ſee, by gluttonous eatings of fleſh, and impious drinkings, and they did *litare in humano ſanguine*, they ſacrificed men and women and children to their *Demons*, as is notorious in the rites of *Bacchus Omeſta* amongſt the Greeks, and of *Jupiter*, to whom a Greek and a Greekeſs, a Galatian and a Galateſs were yearly offered; in the anſwers of the Oracles to *Calchas* as appears in *Homer* and *Virgil*; who ſees not that crimes were warranted by the example of their immortal gods, and that what did diſhonour themſelves, they ſang to the honour of their gods, whom they affirmed to be paſſionate and proud, jealous and revengefull, amorous and luſtfull, fearfull and impatient, drunken and ſleepy, weary and wounded, that the Religions were made laſting by policy and force, by ignorance, and the force of cuſtome, by the preferring an inveterate error, and loving of a quiet and proſperous evil, by the arguments of pleaſure, and the correſpondencies of ſenſuality, by the fraud of Oracles, and the patronage of vices, and becauſe they feared every change as an Earthquake, as ſuppoſing overturnings of their old error to be the everſion of their well eſtabliſhed Governments: and it had been ordinarily impoſſible that ever Chriſtianity ſhould have entred, if the nature and excellency of it had not been ſuch as to enter like rain into a fleece of wooll, or the Sun into a window without noiſe or violence, without emotion and diſordering the political conſtitution, without cauſing trouble to any man but what his own ignorance or peeviſhneſs was pleaſed to ſpin out of his own bowels, but did eſtabliſh Governments, ſecure obedience, made the Laws firm, and the perſons of Princes to be ſacred; it did not oppoſe force by force, nor *ſtrike Princes for Juſtice*; it defended it ſelf againſt enemies by patience, and overcame them by kindneſs, it was the great inſtrument of God to demonſtrate his power in our weaknеſſes, and to doe good to Mankinde by the imitation of his excellent goodneſs.

31. Laſtly, he that conſiders concerning the Religion and perſon of Mahomet, that he was a vicious perſon, luſtful and tyrannical, that he propounded incredible and ridiculous propoſitions to his Diſciples, that it entred by the ſword, by blood and violence, by murder and robbery, that it propounds ſenſual rewards and allures to compliance by bribing our baſeſt luſts, that it conſerves it ſelf by the ſame means it entred; that it is unlearned and fooliſh, againſt reaſon, and the diſcourſes of all wiſe men, that it did no miracles and made falſe Prophecies: in ſhort, that in the perſon that founded it, in the article it perſwades in the manner of prevailing, in the reward it offers it is unholy and fooliſh and rude; it muſt needs appear to be void of all pretence, and that no man of reaſon can ever be fairly perſwaded by arguments, that it is the daughter of God and came down from heaven. Since therefore there is ſo nothing to be ſaid for any other Religion, and ſo very much for Chriſtianity, every one of whoſe pretences can be proved as well as the things themſelves doe require, and as all the world expects ſuch things ſhould be proved; it follows that the holy Jeſus is the Son of God, that his Religion is commanded by God, and is that way by which he will be worſhipped and honoured,

red, and that *there is no other name under heaven by which we can be saved, but onely by the name of the Lord Jesus*. He that puts his soul upon this cannot perish neither can he be reproved who hath so much reason and argument for his Religion. *Sit anima mea cum Christianis*; I pray God my soul may be numbred amongst the Christians.

32. THIS Παρεργον I have here brought as an instance of moral demonstration, not onely to doe honour to my dearest Lord, by speaking true and great things of his Name, and indevouring to advance and establish his Kingdome, but to represent in order to the first intention, that a heap of probabilities may in some cases make a sure Conscience; for as *Cicero* says, *Probabile id est, quod habet in se quandam similitudinem, sive id falsum est, sive verum.* For probability is not in the thing properly, for every thing is true or false in it self, and even false things may have the face and the likeness of truth and cozen even wise persons. It was said of *Bias* in *Diogenes Laertius*, *Orator summus & callidissimus, sed in bonam causam dicendi vim omnem exercuit*, he could speak excellently, but then he spake best when he had an ill cause. This *Lactantius* calls *argutam malitiam*, a cunning and an eloquent malice. But then as falshood may put on the face of truth, so may truth also look like it self; and indeed every truth that men preach in Religion is at least probable, that is, there is so much to be said for it, that wise and good men may be perswaded into every truth; and the cause that it is onely probable is by reason of our want of knowledge of things; but if it so happen that there is much to be said for the truth, and little or nothing against it, then it is a moral demonstration, that is, it ought to perswade firmly, and upon it we may rest confidently.

33. This onely I am to admonish, that our assent in these cases is not to be greater then the force of the premises, and therefore the Church of *Rome* offering to prove all her Religion as it distinguishes from the other divisions of Christians, onely by some prudential motives, or probable inducements, and yet requiring that all her disciples should beleeve it with Divine and infallible faith, as certainly as we beleeve a Mathematical demonstration, does unjustly require brick where she gives no straw, and builds a tower upon a bulrush, and confesses that her interest is stronger then her argument, and that where by direct proof she cannot prevail, she by little arts would affright the understanding. For to give a perfect assent to probable inducements can neither be reasonable nor possible for considering persons, unless these conditions be in it.

The Requisites or Conditions of a Moral demonstration for the assuring our Conscience.

34. 1. That the thing be the most probable to us in our present condition: For there are summities and principalities of probation proportionable to the ages and capacities of men and women. A little thing determines a weak person; and children beleeve infinitely whatsoever is told to them by their Parents or Tutors, because they have nothing to contest against it. For in all probable discourses, there is an allay and abatement of perswasion by the opposition of argument to argument, but they who have nothing to oppose, and have no reason to suspect, must give themselves up wholly to it; and then every thing that comes is equally the highest, because it fully and finally must prevail. But then that which prevails in infancy seems childish and ridiculous

in

in our youth and then we are concluded by ſome preſences and pretty umbrages of things, which for want of experiences we think very well of; and we can then doe no more; that is a demonſtration to us, which muſt determine us, and theſe little things muſt then doe it, becauſe ſomthing muſt be done, and we muſt doe it as wiſely as we may, but no man is bound to be wiſer then he can. As the thing ſeems, either in its own light or in our poſition, ſo we are to give our aſſent unto it.

35. 2. A heap of probable inducements ought to prevail, as being then a moral demonſtration when the thing is not capable of a natural; for then probabilities ought to prevail, when they are the beſt argument we have. For if any man ſhall argue thus: It is not probable that God would leave his Church without ſufficient means to end controverſies, and ſince a living infallible Judge is the moſt effective to this purpoſe, it is therefore to be preſumed and relied upon that God hath done ſo. This argument ought not to prevail as a moral demonſtration; for though there are ſome ſembiances and appearances of reaſon in it, *Nihil enim eſt tam incredibile quod non dicendo fiat probabile*, ſaid *Cicero in his Paradoxes*, there is nothing ſo incredible, but ſomething may be *ſaid for it*, and a witty man may make it plauſible, yet there are certainties *againſt it*. For God hath ſaid expreſly, that *every man is a liar*, and therefore we are commanded to *call no man Maſter upon earth*, and the nature of man is weak, and his underſtanding trifling, and every thing abuſes him, and every man that is wiſe ſees his own ignorance, and he that is not wiſe is eaſily deceived, and they who have pretended to be infallible have ſpoken pitiful things, and fallen into ſtrange errors, and cannot be guarded from ſhame without a whole legion of artifices and diſtinctions, and therefore it is certain that no man is infallible; and where the contrary is certain, the probable pretence is but a fallacy and an art of illuſion.

36. 3. There can be no moral demonſtration againſt the word of God, or divine revelation. He that ſhould flatter himſelf with thinking the pains of hell ſhall not be eternal, becauſe it is not agreeable to the goodneſs of God to inflict a never ceaſing pain for a ſudden and tranſient pleaſure, and that there can be no proportion between *finite* and *infinite*, and yet God who is the fountain of juſtice will obſerve proportions; (or if there could be ten thouſand more little things ſaid to perſwade a ſinning man into confidences of an end of torment) yet he would finde himſelf deceived, for all would be light when put into the ballance againſt theſe words of our bleſſed Saviour [*Where the worm never dies, and the fire never goeth out.*]

37. 4. Where there is great probability on both ſides, there neither of them can pretend to be a moral demonſtration, or directly to ſecure the conſcience: For contradictions can never be demonſtrated; and if one ſays true, the other is a fair pretender, but a foul deceiver; and therefore in this caſe the conſcience is to be ſecured indirectly and collaterally by the diligence of ſearch, the honeſty of its intention, the heartineſs of its aſſent, the infirmity of the ſearcher, and the unavoidableneſs of his miſtake.

38. 5. The certainty of a moral demonſtration muſt rely upon ſome certain rule, to which as to a centre, all the little and great probabilities like the lines of a circumference muſt turn; and when there is nothing in the matter of the queſtion, then the conſcience hath ἓν μέγα one great axiom to rely upon, and that is, that *God is juſt*, and *God is good, and requires no greater probation then he hath enabled us to finde.*

6. In

39. 6. In probable inducements, God requires onely ſuch an aſſent as can be effective of our duty and obedience, ſuch a one as we will rely upon to real events, ſuch as Merchants have when they venture their goods to Sea upon reaſonable hopes of becoming rich, or Armies fight battels in hope of victory, relying upon the ſtrength they have as probable to prevail; and if any article of our Religion be ſo proved to us as that we will reduce it to practice, own all its conſequences, live according to it, and in the purſuance of it hope for Gods mercy and acceptance, it is an aſſent as great as the thing will bear, and yet as much as our duty will require; for in theſe caſes no man is wiſe but he whoſe ears and heart is open to hear the inſtructions of any man who is wiſer and better then himſelf.

40. 7. Rules of prudence are never to be accepted againſt a rule of Logick, or Reaſon, and ſtrict diſcourſes. I remember that *Bellarmine* going to prove Purgatory from the words of our bleſſed Saviour, *It ſhall not be forgiven him in this world, nor in the world to come*; argues thus, If this ſhall not be forgiven in the world to come, then it implies that ſome ſins are there forgiven, and therefore there is a Purgatory; becauſe in heaven there are no ſins, and in hell there are none forgiven. This (ſays he) concludes not by the rule of Logicians, but it does by the rule of prudence. Now this to all wiſe men muſt needs appear to be an egregious prevarication even of common ſenſe; for if the rules of Logick be true, then it is not prudence, but imprudence that contradicts them, unleſs it be prudence to tell or to beleeve a lye. For the uſe of prudence is to draw from conjectures a ſafe and a wiſe concluſion when there are no certain rules to guide us. But againſt the certain rule it is folly that declares, not prudence; and beſides that this conjecture of *Bellarmine* is wholly againſt the deſign of Chriſt, who intended there onely to ſay, that the ſin againſt the holy Ghoſt ſhould never be pardoned; it fails alſo in the main inquiry, for although there are no ſins in heaven, and in hell none are forgiven, yet at the day of Judgement all the ſins of the penitent ſhall be forgiven and acquitted with a bleſſed ſentence: but beſides this, the manner of expreſſion is ſuch as may with prudence be expounded, and yet to no ſuch purpoſe as he dreams. For if I ſhould ſay, *Ariſtobulus* was taken away, that neither in this life, nor after his death, his eyes might ſee the deſtruction of the Temple, does it follow by the rule of prudence, therefore ſome people can ſee in their grave, or in the ſtate of ſeparation with their bodily eyes? But as to the main inquiry, what is to be the meaſure of prudence? For ſome confident people think themſelves very prudent, and that they ſay well and wiſely, when others wiſer then they know they talk like fools, and becauſe no eſtabliſhed reaſon can be contradicted by a prudent conjecture, it is certain that this prudence of *Bellarmine* was a hard ſhift to get an argument for nothing, and that no prudential motives are to be valued becauſe any man cals them ſo, but becauſe they doe rely upon ſome ſure foundation, and draw obſcure lines from a reſolved truth. For it is not a prudential motive, unleſs it can finally reſt upon reaſon, or revelation, or experience, or ſomething that is not contradicted by any thing ſurer then it ſelf.

RULE 3.

Of two opinions equally probable, upon the account of their proper reaſons, one may be ſafer then another.

1. THat is more *probable* which hath fairer reaſons, that is *more ſafe* that is furtheſt diſtant from a ſin: and although this be always conſiderable in the matter of prudence, and in the whole conjunction of affairs, yet it is not always a proper ingredient in the queſtion. The Abbat of *Lerins* hath the Patronage of ſome Eccleſiaſtical preferments in the neighbourhood; He for affection preferres to one of them an ignorant and a vicious Clerk. But afterwards being troubled in conſcience inquires if he be not bound to reſtitution. He is anſwered, No; becauſe it is in the matter of diſtributive juſtice, which binds not to repair that which is paſt, any other ways but by repentance to God and proviſions for the future: yet he being perplexed, and unſatisfied, does reſtore ſo much fruits to the next worthy Incumbent, as the former unworthy Clerk did eat. This was the ſurer courſe, and it procured peace to him; but the contrary was the more probable anſwer. It is ſafer to reſtore all gains of Uſury; but it is more probable that a man is not oblig'd to it: In which caſes the advantage lies not on that ſide that is more probable, but on that which is more ſafe, as in theſe ſentences that oblige to reſtitution. For although either part avoids a formal ſin, yet the ſafer ſide alſo perſwades to an action that is materially good, ſuch as reſtitution is; but not to reſtore, although in theſe caſes it may be innocent, yet in no ſenſe can it of it ſelf be laudable.

2. To which alſo in theſe caſes it may be added, that on the ſafer ſide there is a *phyſical*, or *natural* and *proper* certainty that we ſin not: on the other, though there is a greater probability that there is no obligation, yet at moſt it can make but ſome degrees of moral certainty. But how farre this courſe is to be choſen and purſued, or how farre the other is to be preferr'd, will afterwards be diſputed.

RULE 4.

An opinion that is ſpeculatively probable, is not always practically the ſame.

1. IN *a right and ſure conſcience* the ſpeculative and the practical judgement are always united, as I have before * explicated; but in opinions that are but *probable* the caſe is contrary. It is in ſpeculation *probable*, that it is lawful to baptize in the Name of the Lord Jeſus; but yet he that ſhall doe this practically, does *improbably* and *unreaſonably*. If the opinion of the Primitive Chriſtians had been probable that it is lawful to communicate infants, yet it were at no hand fitting to be done in the preſent conſtitution of affairs; and it were highly uſeful if men would conſider this effectually; and not from every tolerable opinion inſtantly run to an unreaſonable and intolerable practice.

* Lib. 2. Rule 2.

For

2. For a speculation considers the nature of things abstractedly from circumstances physically or metaphysically, and yet when it comes to be reduc'd to practice, what in the head was innocent will upon the hand become troublesome and criminal. If there were nothing in it but the disorder of the novelty or the disturbance of mens minds in a matter that is but probable, it were highly enough to reprove this folly. Every mans imperfect discourse or half reasons are neither fit to govern the actions of others or himself. * Suppose it probable (which the Greek Church beleeves) that the Consecration of the blessed Eucharist is not made by the words of institution, but by the prayers of the holy man that ministers, the Bishop or the Priest; yet when this is reduc'd to practice, and that a man shall omit the words of institution or consecration, his practice is more to be reproved then his opinion could be possibly allowed. * Some think Churches not to be more sacred then other places; what degree of probability soever this can have, yet it is a huge degree of folly to act this opinion, and to choose a Barn to pray in, when a Church may be had.

3. For there are in actions besides the proper ingredients of their intrinsecal lawfulness or consonancy to reason, a great many outsides and adherencies that are considerable beyond the speculation. The want of this consideration hath done much evil in many ages; and amongst us nothing hath been more usual then to dispute concerning a rite or Sacramental, or a constitution whether it be necessary, and whether the contrary be not lawful; and if it be found probably so as the inquirers would have it, immediately they reduc'd it to practice, and caused disorder and scandal, schism and uncharitableness amongst men, while they thought that Christian liberty could not be preserved in the understanding, unless they disorder all things by a practical conclusion. *Videas quosdam quibus sua libertas non videtur consistere, nisi per esum carnium die Veneris in ejus possessionem venerint*; *Calvin* complains with reason. It is a strange folly that men will not think they have possession of Christian liberty, unless they break all Laws and all customs, as if men could not prove things to be indifferent, and not obligatory, unless they certainly omit them. Christian liberty consists in the head, not in the hand; and when we know we are free from the bondage, we may yet doe the work; and when our gracious Lord hath knock'd our fetters off, we may yet think it too fit to doe what his Stewards command us in order to his services. It is free to us to eat or to abstain, to contain or to marry; but he that onely marries because he would triumph and brag of his freedome, may get an imperious Mistress instead of a gentle Master. By the Laws of *Christian liberty* indifferent things are permitted to my choyce, and I am not under their power; but no *Christian liberty* says that I am free from the power of *a man*, though I be from the power of *the thing*; and although in speculation, this last was sufficient to be considered, yet when the opinion comes to be reduc'd to practice, the other also ought to have been thought upon. And besides this, it is a strange pertness and boldness of spirit, so to trust every fancy of my own, as to put the greatest interest upon it; so to be in love with every opinion, and trifling conceit, as to value it beyond the peace of the Church, and the wiser Customes of the world, or the Laws and practices of a wise and well instructed community of men. Nothing can make recompence for a certain change but a certain truth, with apparent usefulness in order to charity, piety, or institution.

Lib. 3. c. 9. instit.

4. These instances are in the matter of Religion; it may also happen thus in the matter of justice. When *Lamech* perceiv'd something stirre in a bush, it

was very probable it was a wild beaſt; but when he came to reduce his opinion to practice, he ſhot at it and kill'd a man. And in the matter of juſtice there is a proper reaſon for this rule: Becauſe in matters of right or wrong, poſſeſſion is not to be altered without certainty, and therefore neither can I ſeize upon my goods in another mans hand, unleſs I be ſure they are mine, though I were not otherwiſe reſtrain'd by humane Laws; neither may I expoſe any thing to danger, of which I am not certainly Maſter.

5. This alſo is with great caution to be obſerv'd in the matter of chaſtity. Although it may be true that in many caſes ſuch or ſuch aſpects or approximations may be lawful; that is, thoſe things ſo farre as they are conſidered have no diſſonancy from reaſon: yet he that ſhall reduce this opinion to practice muſt alſo remember that he is to deal with fleſh and blood, which will take fire, not onely from permiſſions, but from prohibitions and reſtraints, and will paſs inſtantly from lawful to unlawful: and although this may not be a ſin in conſideration and diſcourſe but is to be acquitted by the ſentence of the Schools and Pulpit, yet when it comes to be view'd and laid before the judgement in the Court of conſcience, and as it was cloth'd with circumſtances it will be found, that when it came to be practiſed, other parts or ſenſes were imployed which cannot make ſuch ſeparations, but doe ſomething elſe.

6. But if it be ask'd, To what purpoſe it can be that any man ſhould inquire of the lawfulneſs of ſuch actions which whether they be lawful or unlawful, yet may not be done? I anſwer, That the inquiry is neceſſary for the direct avoiding a ſin in the proper matter of the inſtance; For he that never inquires, ſins for want of inquiry, and deſpiſes his ſoul becauſe he takes no care that it be rightly informed; but if he inquires, and be anſwer'd that the opinion is falſe, or the action criminal, he finds by the anſwer that it was worth his pains to ask, becauſe by it he is taught to avoid a ſin: But then, beſides the queſtion of *lawful* or *unlawful*, there are further inquiries to be made concerning *fitting* and *unfitting*, *offenſive*, or *complying*, *ſafe* or *dangerous*, *abſtractedly* or in *relation*; for many things which are *lawful* in themſelves become very bad to him that does them, and to him that ſuffers them.

RULE 5.

The greater probability deſtroys the leſs.

1. THat is, it is not lawful directly to chooſe an opinion that ſeems leſs probable, before that which is more probable; I ſay, *directly*; for if the leſs probable be *more ſafe*, it becomes accidentally more eligible; of which I have already * given account, and ſhall adde ſomething afterward*. But without this accident, the degrees of ſafety are left to follow the degrees of probability. For when the ſafety does not depend upon the matter, it muſt depend upon the reaſons of the inducement; and becauſe the ſafety muſt increaſe conſequently to the probability, it is againſt charity to omit that which is ſafer, and to chooſe that which is leſs ſafe.

* Note 2 of this 2. Rule 4.

2. For it is not in moral things as it is in natural; where a leſs ſweet is ſtill ſweet, though not ſo ſweet as that which is more: and the flowers of Trefoile are pleaſant, though honey be farre more pleaſant; and *Phædon* may be wiſe, though

though he be not ſo wiſe as *Plato*: becauſe there are degrees of intenſion and remiſſion in theſe qualities: and if we look upon two probable propoſitions, and conſider them naturally, they are both conſonant to reaſon in their apparencies, though in ſeveral degrees. So that if *Sempronius* chooſe a leſs probable, before he hath learn'd what is more probable, he hath done well and ſafely. But when the two probables are compar'd, to reject that which is more probable is to doe 1. Unnaturally: 2. and Unreaſonably: 3. and Imprudently.

3. 1. *Unnaturally.*

In matters propoſed to the will, the will may chooſe a leſs good, and reject the greater; and though it is moſt commonly a great imperfection to doe ſo, yet it is many times innocent, becauſe it is in the choice of the will to which it is propounded, and no Commandement laid upon it. But in matters of opinion and intellectual notices, where there is no liberty, there is a neceſſity of following the natural proportions, that is, that the ſtronger efficient upon the ſame ſuſcipient ſhould produce the more certain and regular effect. To think or to opine is not free (ſaid *Ariſtotle*) and yet he that chooſes the leſs probable, omitting that which is more, makes the determination by his Will, not by his Underſtanding; and therefore it is not an honeſt act or judgement of Conſcience, but a production of the Will.

Lib. 2. de anima. text. 153.

4. 2. It is *Unreaſonable.* Becauſe in all thoſe degrees of reaſonableneſs in which the leſs probable is excelled by that which is more probable, a man does wholly proceed without and againſt that reaſon; and why does he chooſe the leſs probable? I doe not ask why he chooſes *the leſs probable opinion*, that I mean which is ſo in it ſelf; for he may doe that becauſe it ſeems more reaſonable, or he knows nothing elſe: but I ask why he proceeds according to a leſs *probable conſcience?* that is, why does he chooſe that which he beleeves to be leſs probable? for what reaſon does he chooſe that for which he hath the leaſt reaſon? If there be no reaſon to chooſe that rather then the other, then it is an unreaſonable thing to doe ſo. If there be a reaſon which is not in the other, or which is not excelled or equalled by it, then the caſe is altered, and this is not the leſs probable, but equally or more. But ſuppoſing it leſs probable, it is a contradiction to ſay a man can reaſonably chooſe it. For if he could, there muſt be ſome greater reaſon in that which hath leſs reaſon; ſomething there muſt be in it whereby it can be preferred, or be more eligible, which is directly againſt the ſuppoſition and ſtate of the queſtion. The unreaſonableneſs of this we may alſo perceive by the neceſſities of mankinde, which are ſerved by the more probable, and diſſerv'd by that which is leſs. For thus Judges are bound for the intereſt of all parties, and the reaſonableneſs of the thing to judge on that ſide where the ſentence is moſt probable: And the Phyſitian in preſcribing medicines muſt not chooſe that which he leaſt confides in, and reject that which he rather truſts. And why doe all the world in their Aſſemblies take that ſentence which is choſen by the greater part? but becauſe that is preſumed more probable, and that which is ſo, ought to be followed; and why it ought not to be ſo in matters of our ſoul is not eaſily to be told, unleſs our conſcience may be governed by *will* rather then by *reaſon*, or that the intereſt of ſouls is wholly inconſiderable.

5. 3. It is alſo *imprudent*: A man that beleeves a leſs probable, is light of heart, he is incurious of his danger, and does not uſe thoſe means in order to his great end which himſelf judges the moſt reaſonable, effective, and expedient. He does as *Rehoboam* did, who rejected the wiſer counſel of the Seniors, and

choſe the leſs likely ſentence of the young Gallants, and does againſt the advice of all thoſe rules which are preſcrib'd us in prudent choice; and if no man ever adviſed another to chooſe that which is leſs reaſonable, he that does ſo, does againſt the wiſdome and the intereſt of all the wiſe men in the world.

6. 4. After all this it is not honeſt to doe it. For in two probables onely one of them is true, and which that is, he can onely take the beſt way of the beſt reaſon to finde out; and it is impoſſible he ſhould beleeve that which to him ſeems leſs likely, to be the more likely; and therefore ſo farre as is in him he chooſes that which is falſe, and voluntarily abuſes his conſcience, which, beſides the folly of it, is alſo criminal and malicious.

7. This doctrine thus delivered was the opinion of the ancient Caſuiſts, *Angelus*, *Sylveſter*, *Cordubenſis*, *Cajetan*, and ſome others; but fiercely oppoſed by the later, who are bold and confident to ſay that their opinion is the common and more received, and it relies upon theſe reaſons;

8. 1. Becauſe if it were unlawful to follow the leſs probable and to leave the greater, it is becauſe there is danger in ſo doing, and no man ought to expoſe himſelf to a danger of ſinning: but this pretence is nothing; for by the conſent of all ſides it is lawful to follow *the more probable* though it be leſs ſafe; and therefore all danger of ſinning is not under pain of ſin to be avoided.

9. 2. The people are not tied to greater ſeverity in their practices, then the Doctors are in their Sermons and diſcourſes, nor yet ſo much; becauſe in theſe an error is an evil principle, and apt to be of miſchievous effect and diſſemination, whereas an error in practice, becauſe it is ſingular and circumſtantiate, is alſo perſonal and limited. But the Doctors may lawfully teach an opinion leſs probable if they be moved to it by the authority of ſome more eminent perſon.

10. 3. It is confeſſed to be lawful to follow the opinion that is more probable, but that it is lawful to leave the more probable and to follow the leſs (ſay they) is the more common and received opinion, and therefore alſo more probable; and therefore this opinion may be choſen and purſued, and then becauſe we may follow that opinion which is *more probable*, we may follow that which is *leſs*, becauſe it is more probable that we may.

Theſe Objections I anſwer:

11. 1. That the danger of ſinning is not the onely reaſon why we may not follow the leſs probable opinion; for it is not always unlawful to expoſe our ſelves to a danger of ſinning, for ſometimes it is neceſſary that we endure a noble trial, and reſiſt openly, and oppoſe an enemy, which cannot be done without danger, but is often without ſin; but to leave the more probable for the leſs is not onely a danger of ſinning, but a ſin directly, and beyond a danger; and if it were not more then a meer danger, it could not be a ſin. For beſides that this hath danger, it is a moſt unreaſonable, and a moſt unnatural thing, againſt the deſigns of God, and the proper effects of reaſon. But beſides, this way of arguing is neither good in Logick nor in Conſcience. He that can anſwer one of my arguments, does not preſently overthrow my propoſition; and it is not ſafe to venture upon an action, becauſe the contrary relies upon one weak legge. But then as to the inſtance in this argument, I anſwer, He that follows the more probable, though it be leſs ſafe, does not expoſe himſelf

himſelf to any danger at all of ſinning, becauſe though he does not follow his greateſt fears, yet he follows his greateſt reaſon, and in that he is ſometimes ſafeſt though he perceives it not: However, there is in this caſe no danger that is imputable to the man that follows the beſt reaſon he hath. But this excuſes not him who follows that which ſeems to him to have in it leſs reaſon; for unleſs it be by ſome other intervening accident which may alter the caſe (of which I ſhall afterwards give account) the leſs probable opinion hath in it a direct danger, and therefore to chooſe it, is ordinarily againſt charity, and in ſome degree againſt conſcience it ſelf.

12. 2. To the ſecond I anſwer, That both Doctors and the People, though they may ſafely follow *the leſs probable opinion*, yet they may never directly follow *a leſs probable Conſcience*: that is, though a probable opinion is a ſufficient guide of conſcience, and it is ſufficient both for publication and for practice that it is ſo; and therefore that we are not ſtrictly tied to make a curious ſearch into the two probables which excels others in the degrees of reaſon, leſt there ſhould ariſe eternal ſcruples, perpetual reſtleſneſs and diſſatisfaction in the minds of men; yet when of two probables there is an actual perſwaſion that this is more, and that is leſs, neither may the Doctors teach, nor any man follow the leſs, becauſe here it is not *the better opinion*, but *the better conſcience* that is deſpiſed. It may happen that what I beleeve more probable, is indeed leſs; and therefore it muſt be admitted to be ſafe to follow the leſs probable opinion, if it happen to ſtand on the faireſt ſide of conſcience, that is, that it be better thought of then it deſerves; but for the ſame reaſon it is alſo certain that we muſt follow that which we think the more probable opinion, whether it be ſo or no, becauſe this is to be done, not for the opinion, but for conſcience ſake. And whereas it is ſaid in the Objection, that a Doctor may lawfully teach an opinion leſs probable, if he be mov'd to it by the authority of ſome more eminent perſon, that is as much as to ſay, when the opinion which intrinſecally, or at leaſt in his private judgement ſeems leſs probable, becomes extrinſecally the more probable, he may follow either, of which in this Chapter I am yet to give a more particular account; but it no way rifles the preſent doctrine. Onely this I adde, If it were lawful and ſafe to follow the leſs probable opinion, and reject the greater, then in ſuch queſtions which are onely determined by authority, and ſentences of wiſe men, it were lawful to chooſe any thing that any one of them permits, and every probable Doctor may reſcind all the Laws in Chriſtendome, and expound all the precepts of the Goſpel in eaſy ſenſes, and change diſcipline into liberty, and confound intereſts, and arm Rebels againſt their Princes, and flocks againſt their Shepherds and Prelates, and ſet up Altar againſt Altar, and mingle all things ſacred and profane. Becauſe if any one ſays it is lawful, all that have a minde to doe evil things may chooſe him for their guide, and his opinion for their warranty.

13. 3. To the third, I anſwer, that the opinion which is more common is not always the more probable, for it may be falſe and heretical; and if at any times it ſeems more probable, it is becauſe men underſtand little or nothing of it. But then if it were ſo, yet this opinion which is lately taught by the modern Caſuiſts, is not the more common, ſimply and abſolutely; it was once the leſs common, and whether it be ſo now or no, it is hard to tell; but admit it be ſo, yet the community and popularity of opinion is but a degree of extrinſecal probability, and is apt to perſwade onely in the deſtitution of other arguments, which becauſe they are not wanting in this queſtion, the trick in the objection appears trifling.

Rule 6.

When two opinions ſeem equally probable, the laſt determination is to be made by accidents, circumſtances, and collateral inducements.

1. IN the matter of this Rule it is variouſly diſputed; ſome affirming that the Underſtanding muſt for ever remain ſuſpended, and the action wholly omitted, as in the caſe of a doubting Conſcience. * Others give leave to chooſe either part, as a man pleaſe, making the Will to determine the Underſtanding.

2. The firſt cannot be true, becauſe while they both ſeem equally conſonant to reaſon, it cannot be diſhoneſt to chooſe that which to me ſeems reaſonable; and therefore the underſtanding may chooſe practically. They are like two things equally good, which alike move the Will, and the chooſing of the one is not a refuſing the other, when they cannot be both enjoyed: but like the taking one peece of gold, and letting the other that is as good alone: and the action is determined by its *own exerciſe*, not by *an antecedent reaſon*.

* But neither can it be in all caſes and queſtions that the determination can be totally omitted; as if the queſtion be whether this *ought to be done*, or *ought* to be let alone, and both of them ſeem equally probable; ſo alſo if the queſtion be whether *it may be done* or *may* be let alone: In theſe caſes it is certain one part muſt be choſen, for the very ſuſpending the act is not a ſuſpending of the choyce, the not doing it is a compliance with one of the probabilities. The lazy fellow in the apologue that told his Father he lay in bed in the morning, to hear labour and idleneſs diſpute whether it were beſt to riſe or to lie ſtill, though he thought their arguments equally probable, yet he did not ſuſpend his act, but without determining he put the ſentence of idleneſs in execution; and ſo it muſt be in all queſtions of general inquiry concerning *lawful*, or *unlawful*, *neceſſary*, or *not neceſſary*, the equal probability cannot inferre a ſuſpenſion or an equal non-compliance.

3. But neither can the ſecond be true; for the Will muſt not alone be admitted an arbitrator in this affair; for beſides that it is of dangerous conſequence to chooſe an opinion becauſe we will, it is alſo unnatural, the Will being no ingredient into the actions of underſtanding. The Will may cauſe the underſtanding to apply a general propoſition to a particular caſe, and produce a practical judgement by that general meaſure without particular arguments in the queſtion apportioned to the proper matter, as I before diſcourſed. But when the underſtanding is wholly at diſpute about the proper arguments of two propoſitions, if the will interpoſes, the error that happens, if the concluſion falls on the wrong ſide, is without excuſe, becauſe it is choſen; and the truth is not ſo ſafe and uſeful, becauſe it came by an incompetent inſtrument, by that which was indifferent to this truth or the other. Indeed if there be no other way to determine the queſtion, the Will muſt doe it, becauſe there is no avoiding it; but if there be any other way, this muſt not be taken; but ordinarily there is.

Cha 3 Rule 7.

4. The third way therefore is this; The determination may be made by any thing that can be added to either ſide *in genere rationis*. As the action that is prepar'd ſtands more ready for my circumſtances; that which does me leſs vio-

violence, that which is more proportionable to any of thoſe events which in prudence are to me conſiderable. It is indifferent whether *Paula Romana* give her alms to the poor of *Nicopolis*, or to the poor dwelling near the Monaſtery of *Bethlehem*; but becauſe theſe dwelt nearer, and were more fitted for her circumſtances, this was enough to turn the ſcales and make the determination. It is like putting on that garment that is neareſt me, not this rather then the other; nor yet this becauſe I will, but this becauſe it is here. The uſe of this Rule is, to prevent a *probable* conſcience to become *doubtful*, and yet (as much as may be) to avoid the interpoſition of the Will in the practical judgements of Conſcience.

5. This Rule is to be enlarged with this addition; That if the conſcience by reaſon of the equal probability of two opinions ſo ſtanding without any determining and deciding circumſtances and accidents cannot decree on any ſide neither by intrinſecal nor extrinſecal means, that is, neither by proper arguments, nor collateral inducements, no action ought to follow, but the caſe of which the queſtion is, if it can be, ought to be omitted, as in the caſe of a doubting conſcience, which though as I ſhewed before, cannot happen when the queſtion is general of *lawful* or *unlawful*, *neceſſary*, or *unneceſſary*, yet it may happen in particular caſes, as whether this thing be lawful, or that, whether this is to be done, or the other. It may happen that neither of them ought, and in the preſent ſuppoſition neither of them can; that is, if the man ſuffers his diſpute to paſs into a doubt.

6. In other caſes a man may ſafely take any courſe which he finds probable, equally diſputed, uncertain in it ſelf, contrarily determined by Doctors diſputing with fair arguments. For in this caſe malice is no ingredient; and if intereſt be, it is therefore lawful, becauſe it is an extrinſecal motive, apt and reaſonable to be conſidered, and choſen, and purſued by fair means, if the intereſt it ſelf have no foulneſs in it.

7. But of all the external motives that can have influence in the determination of a ſentence between two probabilities, *a relation to piety* is the greateſt. He that chooſes this becauſe it is moſt pious, chooſes his opinion out of conſideration, and by the inducement of the love of God. That which cauſes more honour to God, that which happily ingages men in holy living, that which is the moſt charitable, and the moſt uſeful, that is to be preferred. But this is to be conducted with theſe cautions:

8. 1. That the diſpoſition to piety or charity be not made to conteſt an apparent truth. It is hugely charitable to ſome men, if it could be made true, to ſay that God is merciful to all ſinners and at all times; and it is ten thouſand pities to ſee a man made to deſpair upon his deathbed upon the conſideration of his paſt evil life; but this conſideration muſt not therefore be pretended againſt the indiſpenſable plain neceſſity of a holy life, ſince it is plainly revealed, that without the purſuing of peace with all men, and holineſs, no man ſhall ſee God.

9. 2. If both the probabilities be backed and ſeconded by their proper relations to piety, to take one of them is not a competent way to determine the probability; but it muſt be wholly conducted by the efficacy of its proper reaſons, or by ſome appendage in which one prevails above the other, when one opinion is valued becauſe it is apt to make men fear, and not to be preſumptuous; and another, becauſe it is apt to make men hope, and never to deſpair,

the

the ballance is equal, and muſt be turned by neither of theſe. *Scotus* and *Durandus*, *Gabriel* and *Almain*, *Medina* and ſome few others taught, That the death of Chriſt did not make ſatisfaction to God for the ſins of the whole world, by the way of perfect and exact juſtice, but by Gods gracious acceptance of it, and ſtipulation for it. This opinion does indeed advance the honour of Gods mercy, but the contrary advances the dignity of Chriſts ſuffering; and therefore it muſt be diſputed and determined by ſome other inſtruments of perſwaſion. God the Father is on one ſide, and God the Son on the other, and though he who honours one, honours both, yet he that preferres one may ſeem alſo to diſparage both.

10. 3. The relation to piety, and the advantages which come to it by the opinion muſt not be phantaſtick, and relying upon a weak opinion and fond perſwaſion, but upon true reaſon, or real effects. It is a common opinion among the Ancients, that *Anna* the Mother of the bleſſed Virgin Mother of God had been married to three husbands ſucceſſively, and that the bleſſed Virgin was the ſecond wife of *Joſeph*; they who think that the ſecond and third marriages are leſs perfect then the firſt, think it more pious to embrace the other opinions, *viz.* that *Anna* was married to none but *Joachim*, and that *Joſeph* was onely married to the holy Virgin *Mary*: But becauſe this is to take meaſures of things which God hath not given us, and to reckon purities and impurities by their own fancies, not by reaſon and revelation from God, therefore this phantaſtick relation to piety is not weight enough to carry the queſtion along with it.

In other caſes the Rule holds: And by theſe meaſures our conſcience can be ſupported in a ſtorm, and be nouriſhed and feaſted every day, *viz.* if we take care;

1. That we avoid every thing that we know to be a ſin, whether it be reproached by its natural impurity and unreaſonableneſs, or without any note of turpitude it be directly reſtrained by a Law.

2. That we fly every appearance of evil, or likeneſs of ſin. 1 *Theſſal.* 4.22.

3. That we fly every occaſion, or danger of ſin. *Matth.* 26.58, 69, 70. and 1 *Cor.* 7.5.

4. That we avoid all ſociety, or communication with ſin, or giving countenance, and maintenance to it. By theſe meaſures and analogies if we limit our Caſes of Conſcience, we cannot be abuſed into danger and diſhonour.

Rule 7.

It is not lawful to change our practical ſentence about the ſame object, while the ſame probability remains.

1. A Man may change his opinion as he ſees cauſe, or alter the practice upon a new emergent reaſon; but when all things are equal without and within, a change is not to be made by the man, except it be in ſuch caſes in which *no law*, or *vow*, or *duty*, or the *intereſt of a third* is concerned; that is, unleſs the actions be indifferent in themſelves, or innocent in their circumſtances, and ſo not properly conſiderable in the fears of conſcience, in which caſes a mans liberty is not to be prejudiced.

This

2. This ſtating of the Rule does intimate the proper reaſons of it, as appears in the following inſtances; *Juan* a Prieſt of *Meſsina* having faſted upon the Veſpers of a Holy day, towards the middle of the night hath a great deſire to eat fleſh; he dwelling by the great Church, obſerved that the Clocks in the Neighbourhood differed half an hour: He watches the firſt Clock that ſtruck midnight, and as ſoon as it had ſounded, he eat his meat, becauſe then he concluded that the Eccleſiaſtical faſting day was expired, and that therefore it was then lawful by the Laws of his Church to eat fleſh. But being to conſecrate the bleſſed Euchariſt the next morning, and obliged to a natural faſt before the celebration of the holy Sacrament, he chang'd his computation, and reckon'd the day to begin by the later Clock; ſo that the firſt day ended half an hour before the next day began, and he broke his faſt becauſe the Eve was paſt, and yet he accounted that he was faſting, becauſe the Holy day was not begun. This was to cozen the Law, and if it be tranſlated to more material inſtances, the evil of it will be more apparent, but in this, the unreaſonableneſs is as viſible. * The like is the caſe of a Gentleman living in the Neighbourhood of *Rome*. *Baptiſta Colonna* happened to be in *Rome* on the three and twentieth of *Auguſt*, which is uſually the Eve of S. *Bartholomew*, but there it is kept on the twenty fourth day; he refuſed to faſt on the ordinary day of the Vigils as he uſed to doe, becauſe in *Rome* where he then was, the cuſtome was otherwiſe; he eat his meals, and reſolved to keep it the next day, but on the morrow being very hungry and deſirous of fleſh, he chang'd his ſentence, and went out of *Rome* to the Neighbourhood, and kept the feaſt of S. *Bartholomew* without the Eves. This is to elude the duty, and to run away from the ſeverity of the Law, by trifling with the letter.

3. If the Caſe be not complicated with a Law, yet it is often infolded with the intereſt of a third Perſon, and then is not to be changed, but remains invariable. *Mævius* promiſed to *Sertorius* to give him a ſervant, either *Ephodius* or *Taranta*, but reſolves to give him *Taranta*; immediately after the reſolution *Ephodius* dies, and *Mævius* tels his friend he is disobliged, becauſe he hath but one, and reſolves not to part with *Taranta*, and it was in his liberty to give him either, and becauſe he will not aſſign his part in this, it is wholly loſt in the other; but this is unfriendly and unjuſt. To this ſort of inſtance is to be reduced a caution againſt fraudulency in the matter of Vows.

4. *Vitelleſcus* vows to faſt upon the laſt of *February*, but changing his minde, beleeves he may commute his Faſting for Alms; he reſolves to break his faſt and to give a ducket to the poor. But when he had new dined, he diſcourſes the queſtion again, and thinks it unlawful to commute, and that he is bound to pay his vow in kinde; but the faſt is broken, and yet if he refuſes upon this new inqueſt to pay his commutation, he is a deceiver of his own ſoul. For in the preſent caſe, if to commute were not lawful, yet it is certain he is not diſobliged; and therefore he is to pay his commutation, becauſe it was decreed in the time of a probable conſcience; and not being in it ſelf unlawful, though it be now ſuppoſed to be inſufficient, yet it is to be accounted for, upon the ſtock of the firſt reſolution of the conſcience, becauſe the ſtate of things is not intire; and advantages are not to be taken againſt Religion from the account and ſtock of our errors or deluſions; and if after this, the conſcience be not at reſt, it is to be quieted by other actions of repentance and amends.

Queſt.

5. BUT here alſo is to be inquired, Whether a man may to ſeveral perſons, to ſerve diſtinct ends, in themſelves lawful and honeſt, diſcourſe of and perſwade both the parts of a probability reſpectively? *Titius* wooes *Oreſtilla* for his wife; ſhe being ſickly, and fearful leſt ſhe ſhall have no children, declines it; he to perſwade her, tells her it is very likely ſhe will, and that it will cure her indiſpoſition. But the intereſt of *Titius* is to have no children, as being already well ſtored, and therefore is diſſwaded by them that have power over him, not to marry *Oreſtilla*. He to anſwer their importunity tells them, it is very likely *Oreſtilla* will be barren, and upon that account he marries her becauſe ſhe is ſickly, and unlikely to become a Mother. The Queſtion is, Whether this be lawful?

6. I anſwer, 1. If he be actually perſwaded of that part of the probability when he urges it, and be changed into the other when he perſwades the other, there is no queſtion but it is as lawful to ſay both as one; for they are ſingle affirmatives or negatives, and the time is but accidental to his perſwaſion; yeſterday this, and to morrow its contrary are alike, while in both or each of them his perſwaſion is hearty and ſincere.

7. 2. If *Titius* urges both parts ſeverally, and yet remains actually perſwaded but of one of them, he may urge them as probable in themſelves, diſputable, and of indifferent argument and inducement, for ſo they are. But,

8. 3. He muſt not imprint them by the efficacy of his own authority and opinion, nor ſpeak that as certain which is at moſt but probable, and to him ſeems falſe; for ſo to doe is againſt ingenuity and Chriſtian ſincerity; it is to make a lie put on the face of truth and become a craft; it is not honeſt nor noble, nor agreeing to the ſpirit of a Chriſtian, and is a direct deception on one ſide, and an indirect proſecution of a lawful end.

Rule 8.

An opinion relying upon very ſlender probability is not to be followed, except in the caſes of great neceſsity, or great charity.

1. THAT it is not ordinarily to be followed is therefore certain, becauſe it cannot be ſuppoſed, but that its contradictory hath greater probability, and either he that follows this trifle is light of beleef, or unreaſonable in his choice, or his reaſon is to him, but as eyes to an Owl or Bat, half-ſighted and imperfect; and at the beſt, no fit motive to the Will. And if it could be lawful to follow every degree of probability, it were perfectly in any mans choice to do, almoſt what he pleaſed, eſpecially if he meets with an ill counſellor and a witty advocate. For at this rate all marriages may be diſſolved, all vices excuſed upon pretence of ſome little probable neceſſity; and drunkenneſs will be entertained as Phyſick, and fornication as a thing allowed by ſome vicious perſons whoſe wit is better then their manners; and all books of Conſcience ſhall become patrons or *indices* of ſins, and teach men what they pretend againſt, and there ſhall be no ſuch thing as *checks of Conſcience*, becauſe few men

ſin

ſin without ſome excuſe, and it were no excuſe unleſs it were mingled with ſome little probabilities; and there were in very many caſes, no rule for conſcience but a witty inventer of pretty little inducements, which rather then a man ſhall want, his enemy will ſupply to him out of his magazine of fallacies.

2. 2. But that there are ſome caſes in which it is to be permitted is therefore certain, becauſe it may be neceſſary in ſome circumſtances to doe ſo, and in theſe caſes the former impediments cannot intervene, becauſe the cauſes of neceſſity or great charity occurring but ſeldome deſtroy all power or pretence of an eaſy deception. *Anna Murrana* was married to her near kinſman *Thomaſo Grillo*, but ſuppoſed him not to be ſo near. It was afterwards diſcovered to her that the propinquity was ſo great that the marriage was null and invalid: while this trouble was upon her, there happily comes a diſcreet old woman who tells her, that though it be true that *Grillo*'s Father was ſuppoſed to have lien with her Mother, and that her ſelf was born of that conjunction, yet ſhe her ſelf being private to the tranſaction did put another woman into the place of *Murrana's* Mother, and that her Mother was alſo deceived in the ſame manner; and though they thought they enjoyed each other, yet they were both cozened into more chaſt embraces. Now upon this the queſtion ariſes, whether or no *Murrana* may ſafely rely upon ſo ſlight a teſtimony as the ſaying of this woman, in a matter of ſo great difficulty and concernment. Here the caſe is favourable. *Murrana* is paſſionately endeared to *Grillo*, and beſides her love hath a tender conſcience, and if her marriage be ſeparated, dies at both ends of the evil, both for the evil conjunction, and for the ſad ſeparation. This therefore is to be preſumed ſecurity enough for her to continue in her ſtate.

3. Like to this is that of a woman in *Breſcia*. Her husband had been contracted to a woman of *Panormo*, *Per verba de præſenti*; ſhe taking her pleaſure upon the Sea, is with her company ſurpriſed by a Turks man of Warre, and is reported, firſt to have been defloured, and then kill'd. When the ſorrow for this accident had boyld down, the Gentleman marries a Maid of *Breſcia*, and lives with her ſome years; after which ſhe hears that his firſt Spouſe was not kill'd, but alive and in ſorrow in the Iſle of *Malta*, and therefore that her ſelf liv'd in a ſtate of adultery, becauſe not ſhe, but the woman in *Malta* was the true wife to her husband. In this agony of ſpirit a Mariner comes to her houſe and ſecretly tells her, that this woman was indeed at *Malta*, but lately dead, and ſo the impediment was removed. The queſtion now ariſes, whether upon the taking away this impediment, it be required that the perſons already engaged ſhould contract anew? That a new contract is neceſſary, is univerſally beleeved, and is almoſt certain (as in its proper place will be made to appear) for the contrary opinion is affirm'd but by a very few, and relies but upon trifling motives, requiring onely the conſent of either of the parties as ſufficient for renewing of the contract. But this being but a ſlender probability ought not to govern her; ſhe muſt contract anew by the conſent of her husband as well as by her own act. But now the difficulty ariſes; for her husband is a vicious man, and hates her, and is weary of her, and wiſhes her dead; and if ſhe diſcover the impediment of their marriage, and that it is now taken away, and therefore requires him to recontract himſelf, that the marriage which was innocently begun, may be firm in the progreſſion, and legally valid, and in conſcience; ſhe hath great reaſon to beleeve that he will take advantage of it, and refuſe to joyn in a new contract. In this caſe therefore, becauſe it is neceſſary ſhe ſhould ſome way or other be releeved, it is lawful for her to follow that little probability

bability of opinion which ſays, that the conſent of one is ſufficient for the renovation of the contract. And in this caſe all the former inconveniences mentioned before doe ceaſe: and this is a caſe of favour, in behalf of an innocent marriage, and in favour of the legitimation of children, and will prevent much evil to them both. So that although this caſe hath but few degrees of probability from its proper and intrinſecal cauſes, yet by extrinſecal and collateral appendages it is grown favourable, and charitable, and reaſonable: it is almoſt neceſſary, and therefore hath more then the little probabilities of its own account.

4. One caſe more happens in which a ſmall probability may be purſued, *viz.* when the underſtanding hath not time to conſider deeply, and handle the queſtion on all ſides; then that which firſt offers it ſelf, though but mean and weak, yet if it be not againſt a ſtrange argument at the ſame time preſented, it may ſuffice to determine the action; for in caſe the determination prove to be on the wrong ſide, yet the ignorance is *involuntary* and *unchoſen*.

These Rules are concerning a Conſcience that is probable by *intrinſecal* motives, that is, by reaſon, whether the reaſon be direct or collateral. But becauſe the conſcience is alſo probably moved in very many caſes, by *Authority*, which is an extrinſecal motive, this is alſo to be guided and conducted.

Rule 9.

Multitude of Authors is not ever the moſt probable inducement, nor doth it in all caſes make a ſafe and probable Conſcience.

1. FOllowing a multitude is ſometimes like the grazing or running of an heard, *Non quo eundum eſt, ſed quo itur*, not where men ought but where they uſe to goe: and therefore *Juſtinian* in compiling of the body of the Romane Laws, took that which was moſt reaſonable, not that which was moſt followed; *Sed neque ex multitudine Authorum quod melius & aquius eſt judicabile: cùm poſſit unius forſan, & deterioris ſententia multos & majores aliqua in parte ſuperare.* The ſentence of one, and of a meaner man may ſometimes outweigh the ſayings of a multitude of greater perſons. *Nam teſtibus ſe, non teſtimoniis creditu-rum reſcripſit Imperator.* Sometimes one witneſs is better then twenty teſtimonies; that is, one man, good and pious, prudent and diſintereſs'd, can give a ſurer ſentence then many men more crafty, and leſs honeſt. And in the Nicene Council when the Biſhops were purpoſing to diſſolve the Prieſts marriages, *Paphnutius* did not follow the common vote, but gave them good reaſon for his ſingle opinion, and they all followed him. This Rule is true, and to be practiſed in the following caſes:

L. penult. Sed neque C. de veter. jure enucleando.

Cap. Nicæna Synodus. dist. 32.

2. 1. When againſt the common opinion there is a ſtrong, or a very probable reaſon, then the common opinion is not the more probable. Becauſe a reaſon is an intrinſecal, proper and apportioned motive to the conſcience, but humane authority, or citation of conſenting Authors is but an extrinſecal, accidental and preſumptive inducement, and a meere ſuppletory in the deſtitution of reaſon: and therefore *Socrates* ſaid, *Veritatem in diſputando, non ex teſte aliquo, ſed ex*

In Protag. Plat.

ex argumento eſſe ponderandam; Truth is to be weighed by argument not by teſtimony, and it is never otherwiſe but when men are ruled by prejudice, or want reaſon to rule them in that particular. *Tantum opinio præjudicata poterat, ut etiam ſine ratione valeret authoritas*, ſaid *Cicero*. And this is to be extended to all ſorts of Authors that are not Canonical, or Divine. *Meum propoſitum eſt antiquos legere, probare ſingula, retinere quæ bona ſunt, & a fide Eccleſiæ Catholicæ non recedere*, ſaid S. *Hierom.* My purpoſe is to read the Fathers, to try all things, to retain that onely which is good, and never to depart from the faith of the Catholick Church, that is, from the Creeds, which all Chriſtendome profeſſes. And at another time when himſelf ask'd leave, in diſcourſe with S. *Auſtin*, *Patiatur me cum talibus errare*, Suffer me to goe along with ſuch great men, though to an error, it would not be permitted, but reaſon was choſen and the authority neglected. And this courſe all men have followed when they pleaſed, and knew they might and ought.

1. De nat. Deor.

Vide Liberty of Propheſ. Sect. 8. Duille du Vrai uſage des Peres

3. 2. When the multitude of Doctors are reducible to a ſingle, or an inconſiderable principle and beginning. Thus an opinion entertained by a whole family and order of *Clerks*, while they either generally doe follow, or think themſelves bound to follow the leading man in their own order, is to be reckoned but as a ſingle opinion. The Millenary opinion was driven to a head in *Papias*; the condemning unbaptized infants, in S. *Auſtin*, or S. *Ambroſe*; and therefore their numerous followers are not to be reckoned into the account. For if they that follow conſider it not, the caſe is evident; if they doe, then their reaſons are to be weighed, not their authority.

4. 3. When it is notorious that there is, or may be a deception in that number, by reaſon of ſome evil ingredient in the production of the opinion; as if it be certain that the opinion was taken up becauſe it ſerves an intereſt, the ſame men having been on the other ſide when their intereſt was there. That it is lawful to put hereticks, or diſagreeing perſons to death, is generally taught by the followers of *Calvin* and *Beza* where they doe prevail: and yet no man that lives under them hath warrant to rely upon their authority in this queſtion, becauſe it is onely where and when they have power, themſelves having ſpoken againſt it in the days of their minority and under perſecution. Under the ſame conſideration it is, if there be any other reaſon againſt the men, not relating to their manners, but to their manner of entring or continuing in the perſwaſion.

5. 4. But when theſe cautions are provided for, the multitude of Authors hath a preſumptive authority, that is, when there is no reaſon againſt the thing, nor againſt the men, we may preſume upon the multitude of learned men *in their proper faculty*, that what they teach is good and innocent, and we may proceed to action accordingly. It can never make a Conſcience *ſure*, but it may be *innocent*, becauſe it is *probable*; but he that relies upon authority alone is governed by chance. Becauſe, if the *more* be againſt him, he is prejudic'd by multitude; if the *fewer* be againſt him, yet they may be the wiſeſt: and whether they be or not, yet a tooth-drawer may ſometimes ſpeak a better reaſon; and one may carry it againſt multitudes, and neither one nor the other can juſtly induce a beleef unleſs they have conſidered all things; and if I can tell who hath done ſo, I am my ſelf as well able to anſwer as they: for he that can judge who ſpeaks beſt reaſon, or who is moſt fit to be truſted in the particular, muſt be able in himſelf to conſider the particulars by which that judgement is to be made; if he can and does, he hath reaſon within him, and needs not fol-

low authority alone; if he cannot, then he is governed by chance, and muſt be in the right, or in the wrong according as it happens. For in many caſes both ſides have many advocates and abettors, and no man can tell who hath moſt, and each ſide ſays that their opinion is the moſt commonly received. In *Venice* there is a Law that any man may kill his Father if he be baniſhed; ſome affirm this alſo to be lawful where ſuch a Law is in force, and they affirm this to be the common opinion. *Julius Clarius* ſays that it is the common opinion, that though there be ſuch a Law, yet that it is unlawful to doe it. It is commonly affirmed that it is lawful for ſuch a baniſhed perſon to defend himſelf, and if he can in his own defence to kill the invader. It is alſo a common opinion that this is as unlawful as for a condemn'd man to kill his Executioner, becauſe no Warre can be juſt on both ſides. It is very commonly taught, that it is lawful by fraud, by ſurpriſe, by treaſon, to ſlay the *Banditi*. It is alſo very commonly taught that this is abſolutely unlawful. * Sometimes that which was the common opinion an age agoe, is now rarely maintained but by a few perſons. It was a common opinion in *Tertullians* time, that the ſouls departed are in outer Courts expecting the revelation of the day of the Lord; in the time of *P. Leo*, and *Venerable Bede*, and after, it was a coimmon opinion that they were taken into the inner Courts of heaven. * Sometimes the place diverſifies the opinion. In *Germany* and *France*, the *Romaniſts* worſhip the Croſs with a religious worſhip of the loweſt kinde of their own diſtinction; but in *Spain* they worſhip it with that which they call λατρεια, or the higheſt kinde; and this is commonly done in the ſeveral Countries reſpectively. When this, or any thing like this ſhall happen, unleſs by reaſon men be determined, they may draw lots for their opinion. But ſince the better part is not always the greater, it is left to me to chooſe which I will; and it is ten to one but I call the men of my own communion or my own acquaintance, *The beſt*; and it is certain I cannot judge of thoſe with whom I doe not converſe.

6. For theſe and many other concurrent cauſes, the proceeding is inartificial and caſual, and fit to lead the ignorant, but not the learned: and concerning the ignorant he can ſo little skill to chooſe his authority, that he muſt lie under that where he dwels, and where his fortune hath placed him. If he goes any whither elſe he hath no excuſe, becauſe he hath no ſufficient inducement; and where a man cannot goe alone, it is beſt for him to ſit ſtill where Gods providence hath placed him, and follow the Guides provided by the Laws of his Country where he was born, or where he lives:

Epictet. Πελυπόδι μοι τέκνον ἔχων τόον——
Τοῖσιν ἐφαρμόζων ὧν χ᾽ ὁσίης δήμου ἵκηαι.

Conform your ſelf to the Laws of the People with whom you muſt abide.

7. This is the moſt proper way to conduct the ignorant in their caſes of conſcience in which themſelves have no skill. They muſt beleeve one, and if they have a better way to proceed, let them purſue it: if they have not, this is certainly ſafe, becauſe it is their beſt; and no man is tied to make uſe of better then he hath. And if they could fall into error, yet it could not be imputed to them with juſtice, while *bonâ fide* they fall into hereſy, and are honeſtly betrayed. This onely is to be added:

8. They muſt make it as good as they can by inquiry (according to their circumſtances, opportunities, and poſſibilities) and by prayers, and by innocent and honeſt purpoſes, for theſe onely will ſecure our way, by means of Gods provi-

providing. In this caſe there is no irregularity, becauſe it is the beſt obedience which can be expreſſed by ſubordinate and weak underſtandings, and there is in it no danger, becauſe the piety, and the prayers of the man will obtain Gods bleſſing upon his innocent well meaning ſoul. It was well ſaid of *Heſiod*,

Οὗτος μὲ παναέριστος ὃς αὐτὸς πάντα νοήσῃ
Φρασσάμενος τὰ κ' ἔπειτα καὶ εἰς τέλος ἤσιν ἀμείνων.
Ἐσθλὸς δ' αὖ κἀκεῖνος ὃς εὖ εἰπόντι πίθηται.
Ὃς δέ κε μήτ' αὐτὸς νοέῃ μήτ' ἄλλου ἀκούων
Ἐν θυμῷ βάλληται, ὅδ' αὖτ' ἀχρήιος ἀνήρ.

He is the beſt and wiſeſt man who in himſelf knows what he ought to doe, diſcerning what is beſt, and ſeeing unto the end of things. He alſo is good, who obeys the ſayings of wiſe men, that counſel well; but he is a fool who not being able to adviſe or determine himſelf, refuſes to be conducted by others. Here onely are the evils to be complained of.

9. In ſome places there are a great many articles put into their publick confeſſions, and a great many teachers of unneceſſary propoſitions, and a great many idle and impertinent guides, who multiply queſtions leſt themſelves ſhould ſeem uſeleſs; and amongſt men, there are many orders, and families, and ſocieties, all which are deſirous to advance themſelves, and to get diſciples and reputation; and on the other ſide, there are very many that are idle, and rather willing to truſt others, then to be troubled themſelves; and many chooſe Teachers for intereſt, and ſome have mens perſons in admiration becauſe of advantage; and Princes have deſigns of State, and they would have Religion miniſter to them, and there are a great many Eccleſiaſtical Laws made, and ſome of theſe paſs into dogmaticall propoſitions, and they *teach for doctrines the Commandements of men*; and there are very many ſects of men, and confident fools, who uſe to overvalue their trifles, and teach them for neceſſary truths, and in all this incertainty of things, men are in the dark, and Religion is become an art of wrangling; and the writers of Controverſies are oftentimes abuſed themſelves, and oftner doe abuſe others; and therefore men are taught certain little rules to grope by, and walk in Seas and upon Rocks. But the things themſelves are oftentimes ſo indifferent, and the reaſons of either ſide ſo none at all, or ſo inconſiderable, that it comes to paſs that the teſtimony of Doctors is the guide that men chooſe (*as they liſt*) to follow; who becauſe they teach contrary things, cannot be followed by their authority, and for reaſon, ſometimes themſelves have none, ſometimes their diſciples have not leiſure to examine them, or judgement to diſcern them.

Queſt.

10. HEre therefore is to be inquired, How ſhall the ignorant and vulgar people proceed in ſuch caſes where their Teachers are divided?

1. I anſwer, that in moſt caſes it is beſt for them to let them alone, and let them be divided ſtill, and to follow them in thoſe things where they doe agree; but if it be in ſuch caſes where they muſt declare or act on one ſide, let them take that which they think to be *the ſafeſt*, or the *moſt pious*, the *moſt charitable*, and the *moſt uſeful*; that ſo by collateral conſiderations they may determine that which by the authority ſeems equal and indeterminable.

The collateral conſiderations are commonly theſe:

1. That which is more agreeable to the letter of Scripture.
2. That which does moſt agree with the purpoſe and deſign of it.

3. That which Saints have practiſed.
4. That which whole Nations have approved.
5. That which is agreeable to common life.
6. That which is beſt for the publick.
7. That which is moſt for the glory of God, for the reputation of his Name, and agreeing with his attributes.
8. That which is more holy.
9. That which gives leaſt confidence to ſin and ſinners.
10. That which is moſt charitable to others.
11. That which will give leaſt offence.
12. And (in deſtitution of all things elſe) that which is moſt uſeful to our ſelves. All theſe are good conſiderations, and ſome of them intervene in moſt caſes, and can be conſidered by moſt men. But where nothing of theſe can be interwoven in the ſentence, but that the authority of the Teacher is the onely thing that can be conſidered, the following meaſures are to be added.

11. 2. The authority of one man wiſe and good, that is, who is generally ſo reputed, is a probable argument, and a ſufficient guide to ignorant perſons in doubtful matters, where there is no clear or known revelation to the contrary. When it is his beſt, there is no diſputing whether it be good or no; onely in this caſe, he is ſo farre to ſuſpend his conſent, till his guide hath conſidered, or anſwered deliberately; for if his guide vomit out anſwers, it is better to refuſe it, till it be digeſted better. This hath been highly abuſed in ſome places, and permiſſions have been given or taken to doe acts of vile impiety, or horrible danger, where by intereſt they were perſwaded, and being deſirous for ſome pretence to legitimate the act, or to invite their conſcience to it, they have been content with the opinion of one probable Doctor. Such was he whoſe teſtimony being required in a matter of right concerning his College, ſwore to a thing as of his certain knowlege, of which he had no certain knowledge, but a probable conjecture; onely becauſe he had read or been told that one Doctor ſaid it was lawful ſo to doe. This is to ſuborn a ſentence and to betray a conſcience, for the ſentence of one Doctor is onely a good or a tolerable guide, when there is no better guide *for us*, and no reaſon *againſt us*; that is, it is to be uſed onely when it is the beſt, but not when it is the worſt.

12. 3. But if divers men equally wiſe and good ſpeak variouſly in the queſtion, and that the inquirer cannot be indifferent to both, but muſt reſolve upon one, he is firſt to follow his Pariſh Prieſt, rather then a ſtranger in the article, who is equal in all things elſe; his own Confeſſor, his own Biſhop, or the Laws and Cuſtoms of his own Country: becauſe next to reaſon, comes in place that which in order of things is next to it; that is, the *proper advantages* of the man, that is, *learning and piety*; and next to them ſucceed the *accidental advantages* of the man, that is, *his authority* and *legal prehe-minence*. There is no other reaſon for theſe things, but that which is in the proper and natural order of things: This is the natural method of perſwaſion *direct* and *indirect*.

13. 4. Where it can certainly be told that it is the more common, there the community of the opinion hath the advantage, and is in the ſame circumſtances ſtill to be preferred, becauſe where reaſon is not clear and manifeſt, there we are to goe after it, where it is more juſtly to be preſumed. Τὰ τοῦ καλὸν ἐν πολλοῖσι καλλιον λέγειν, ſaid *Euripides*, it is good when good things are atteſted by

by many witneſſes. Ὃ μὲ πᾶσι δοκεῖ, τοῦτο εἶναι φαμὲν, ſaid *Ariſtotle*, that which ſeems ſo to all men, this we ſay, is as it ſeems; and ſo it is in proportion from ſome to many, from many to all. The ſumme of all theſe things is this: 1. God is to be preferred before man. 2. Our own *reaſon* before the *ſayings* of others. 3. Many before few. 4. A few before one. 5. Our ſuperiours, or perſons in juſt authority over us, before private perſons, *cæteris paribus*. 6. Our own before ſtrangers. 7. Wiſe men before the ignorant. 8. The godly and well meaning, and well reputed, before men of indifferent or worſe lives. That is, they muſt doe as well and wiſely as they can, and no man is obliged to doe better. Onely this is to be obſerved; Eth. lib. 10. c. 3.

14. That in this caſe it is not neceſſary that truth ſhould be found, but it is highly neceſſary it ſhould be ſearched for. It may be it cannot be *hit*, but it muſt be *aymed at*. And therefore they (who are concerned) are not to be troubled and amazed at the variety of opinions that are in the world; *There muſt be hereſies*, that is, ſects and differing opinions, *that they who are faithful may be approved*. Now they can be approved in nothing but what is in their power, that is, *diligence* to inquire, and *honeſty* in conſenting; both which may very well be, and yet the man be miſtaken in his particular ſentence, in a matter not ſimply neceſſary, not plainly revealed.

15. There is but one thing more that concerns his duty, and that is, that in all his choices he preferre the intereſt of peace and of obedience; for it ought to be a very great cauſe that ſhall warrant his diſſent from the authority which is appointed over him. Such cauſes may be, but the unskill'd multitude (of whom we now treat) ſeldome finde thoſe cauſes, and ſeldome are able to judge of them, and therefore this Rule is certain.

16. Whoever blows a trumpet, and makes a ſeparation from the publick, they who follow his authority, and know not, or underſtand not a ſufficient reaſon for the doing it, they are highly inexcuſable upon this account, becauſe they following the leſs probable authority, have no excuſe for the matter of their ſin; and therefore if it happen to be *ſchiſme* or *rebellion*, or *diſobedience*, or *hereſy* in the ſubject matter, it is in the very *form* of it, ſo imputed to the conſenting perſon. For though great reaſon may be ſtronger then authority, yet no private authority is greater then the publick. But of this I ſhall have further occaſion to diſcourſe in its proper place.

17. Although this is the beſt, and therefore a ſufficient advice for the ignorant, yet for the learned and the wiſe, there are other conſiderations to be added.

1. *They who are to teach others may not rely upon ſingle teſtimonies, or the ſlight probability of one Doctors opinion.* This is true *ordinarily* and *regularly*, becauſe ſuch perſons are ſuppoſed *more at leiſure*, *more inſtructed*, better *able to inquire*, and to rely finally upon ſuch ſingle and weak ſupports, is *to doe the work of the Lord negligently*.

18. 2. If the opinion be probable upon the account of a more general reception, and be the more common, and allowed by wiſe and good men, they who are learned, and are to teach others, may lawfully follow the opinion without examining the reaſons for which it is by thoſe wiſe men entertained. For the work of learning and inquiry is ſo large and of immenſe extenſion, that it is impoſſible all men ſhould perfectly inquire of all things. But ſome eſpecially attend to one thing, ſome to another; and where men have beſt conſide-

red, they conſider for themſelves and for others too, and themſelves are help'd by thoſe others, in the proper matter of their conſideration. A mans life is too ſhort, and his abilities leſs, and it may be his leiſure is leaſt of all, and unable ſo to conſider all that is fit to be beleeved and taught, that it will be neceſſary we ſhould help one another; and the great Teachers and Doctors in ſeveral inſtances may ordinarily be relied upon without danger and inconvenience.

19. 3. But if it happens that by circumſtances and accidents the particular queſtion be drawn out into a new inquiry; if a new doubt ariſe, or a ſcandal be feared, or the diviſion of mens minds in the new inqueſt, then the reaſons muſt be inquired into, and the authority is not ſufficient.

1. Becauſe the authority is by the new doubt made leſs probable, and is part of the queſtion, and therefore ought not to be preſumed right in its own caſe.

2. Becauſe the duty of Teachers is by this accident determined to this ſpeciall inquiry, and call'd from their unactive reſt, and implicit beleef; becauſe the inquirers upon this new account will be determined by nothing but by that reaſon that ſhall pretend ſtrongeſt; and therefore they who are thus call'd upon, can no other ways *give anſwer to them that ask.* It was the univerſal doctrine of the Church of God for many ages, even for fourteen Centuries of years, that *Epiſcopacy is of Divine*, or *Apoſtolical inſtitution:* It was a ſufficient warranty for a Pariſh Prieſt to teach that doctrine to his Pariſhioners, becauſe he found it taught every where, and queſtioned no where. But when afterwards this long preſcribing truth came to be queſtioned, and reaſons and Scriptures pretended and offered againſt it, and a ſchiſm likely to be commenc'd upon it, it is not ſufficient then to rely upon the bare word of thoſe excellent men who are able to prove it (as it is ſuppoſed,) but they who are to teach others muſt firſt be inſtructed themſelves in the particular arguments of probation; that according to the precepts Apoſtolical, they may *render a reaſon of the hope that is in them*, and may be able *both to exhort and to convince the gain-ſayers*; who becauſe they expreſly decline the authority, and the weight of teſtimony, cannot be convinced but by *reaſon*, and the way of their own *proceeding*.

1 Pet 3. 15. Tit. 1. 9.

Rule 10.

In following the authority of men, no Rule can be antecedently given for the choice of the perſons, but the choice is wholly to be conducted by prudence, and according to the ſubject matter.

1. *Ancient Writers* are more venerable: *Modern* Writers are more knowing: *They* might be better *Witneſſes*, but *theſe* are better *Judges*. *Antiquity* did teach the *Millenary* opinion, and that Infants were to be communicated; that without baptiſm they were damn'd to the flames of hell; that Angels are corporeal; that the ſouls of Saints did not ſee God before Doomeſday; that ſins once pardoned did return again upon caſe of relapſe; that perſons baptized by hereticks were to be re-baptized, and they expounded Scripture in places innumerable, otherwiſe then they are at this day by men of all perſwaſions; and therefore no company of men will conſent that in all caſes the Fathers are

rathe

rather to be followed then their Succeſſors. They liv'd in the infancy of Chriſtianity, and we in the elder ages; they practiſed more and knew leſs, we know more and practiſe leſs; paſſion is for younger years, and for beginning of things, wiſdome is by experience, and age, and progreſſion. They were highly to be valued, becauſe in more imperfect notices they had the more perfect piety: we are highly to be reproved, that in better diſcourſes we have a moſt imperfect life, and an unactive Religion: They in their Caſes of Conſcience took the ſafeſt part, but the Moderns have choſen the moſt probable. * It was the opinion of the *Ancient Divines* and *Lawyers*, that every man is bound to make reſtitution of all that which he gains by play, by Cards and Dice, and all ſuch ſports as are forbidden by humane Laws. The *modern Caſuiſts* indeed doe often reprove the whole proceſs, and condemne the Gameſters in moſt circumſtances, but doe not beleeve them tied to reſtitution, but to penance onely: The firſt is the ſafer and the ſeverer way, but the later hath greater reaſons, as will appear in its own place. All contracts of Uſury were generally condemn'd in the foregoing ages of the Church: of late, not onely the Merchant, but the Prieſt and the *Frier* puts out money to increaſe, and think themſelves innocent: and although commonly it happens that our ignorance and fears repreſent one opinion to be ſafe, when the other is more reaſonable; yet becauſe men will be fearful, and very often are ignorant and idle in their inquiries, there will ſtill remain this advantage to either ſide, that one is wiſer, and the other in his ignorance is the more ſecure becauſe he does more then he needs. And therefore it often happens that though we call the ancient Writers, *Fathers*, yet we uſe them like *children*, and think our ſelves Men rather then them, which is affirmed by ſome, but in effect practiſed by every man when he pleaſes.

2. But if any one ſhall chooſe the later Writers, he muſt firſt chooſe his intereſt and his ſide; I mean if he chooſes to follow any upon their authority or reputation without conſideration of their reaſons, then he muſt firſt chooſe his ſide, for he can never chooſe his ſide by the men, becauſe moſt Authors are of it themſelves by intereſt. But becauſe all probability is wholly derived from reaſon, every authority hath its degree of probability according as it can be *preſumed* or *known* to rely upon reaſon. Now in this both the Ancients and the Moderns excel each other *reſpectively*. "The Ancients were nearer to "the fountains Apoſtolical, their ſtream was leſs pudled, their thred was not "fine but plain and ſtrong, they were troubled with fewer hereſies; they were "not ſo wittily miſtaken as we have been ſince; they had better and more firm "tradition, they had paſs'd through fewer changes, and had been blended with "fewer intereſts; they were united under one Prince, and conſequently were "not forc'd to bend their doctrines to the hoſtile and oppoſite deſigns of figh-"ting, and crafty Kings; their queſtions were concerning the biggeſt articles "of Religion, and therefore ſuch in which they could have more certainty "and leſs deception; their piety was great, their devotion high and pregnant; "their diſcipline regular and ſincere, their lives honeſt, their hearts ſimple, their "zeal was for ſouls, and the blood of the Martyrs made the Church irrigu-"ous, and the Church was then a garden of the faireſt flowers, it did daily ger-"minate with bleſſings from heaven, and Saints ſprung up, and one Saint could "know more of the ſecrets of Chriſts Kingdom, the myſteriouſneſſes of god-"ly wiſdome then a hundred diſputing Sophiſters; *and above all*, the Church "of *Rome* was then *holy* and *Orthodox*, *humble* and *charitable*, her authority dwelt "in the houſe of its birth, that is, in the advantages of *an excellent faith* and an "*holy life*; to which the advantages of an accidental authority being added by

the

" the Imperial ſeat, ſhe was made able to doe all the good ſhe deſired, and " ſhe deſired all that ſhe ought; and the greatneſs of this advantage we can beſt " judge by feeling thoſe ſad effects which have made Chriſtendome to groan, " ſince the Pope became a temporal Prince, and hath poſſeſs'd the rights of " ſome Kings, and hath invaded more, and pretends to all, and is become the " great Fable, and the great Comet of Chriſtendome, uſeleſs and ſupreme, " high and good for nothing in reſpect of what he was at firſt, and ſt ll might " have been, if he had ſeverely judged the intereſt of Jeſus Chriſt to have " been his own.

3. But then on the other ſide, the *modern Writers* have conſidered all the arguments and reaſons of the Ancients; they can more eaſily adde then their Fathers could finde out; They can retain their perfect iſſues, and leave the other upon their hands; and what was begun in conjecture, can either be brought to *knowledge*, or remanded into the lot and portion of *deceptions*. *Omnibus enim hic locus feliciter ſe dedit, & qui præceſſerunt non præripuiſſe mihi videntur quæ dici poterant, ſed aperuiſſe. Conditio optima ultimi eſt*, ſaid *Seneca*. They who went before us, have not prevented us, but opened a door that we may enter into the receſſes of truth: He that comes laſt hath the beſt advantage in the inquiry. *Multum egerunt qui ante nos fuerunt, ſed non peregerunt, multum adhuc reſtat operis, multúmque reſtabit, nec ulli nato poſt mille ſecula præcludetur occaſio aliquid adhuc adjiciendi.* They who went before us have done wiſely and well in their generations, but they have not done all; much work remains behinde, and he that lives a thouſand ages hence, ſhall not complain that there are no hidden truths fit for him to inquire after. There are more worlds to conquer:

Epiſt. 64. *Multa dies, variúſque labor mutabilis ævi*
Retulit in melius ——— ——— ———.

Every day brings a new light, and by hearty and wiſe labour we improve what our Fathers eſpied when they peep'd through the creviſes. Every art, every manufacture was improved,

Æneid. 11. *Venimus ad ſummum fortunæ, pingimus atque*
Pſallimus, & luctamur Achivis doctiùs unctis.

The Romanes out-did the Greeks, even in things which they were taught in *Athens*, or on their hils of ſport. But to proceed in the comparing the ages: Theſe later ages have more hereſies, but the former had more dangerous; and although the Primitive piety was high and exemplary, yet the effect of that was, that in matters of practice they were more to be followed, but not in queſtions of ſpeculation; theſe later ages are indeed diſeaſed like children that have the Rickets, but their upper parts doe ſwell, and their heads are bigger, *ſagaciores in dogmate, nequiores in fide*, and if they could be abſtracted from the mixtures of intereſt, and the ingagement of their party, they are in many things better able to teach the people then the Ancients: That is, *they are beſt able to guide, but not always ſafeſt to be followed.* If all circumſtances were equal, that is, if the later ages were *united*, and *governed*, and *diſintereſt*, there is no queſtion but they are the beſt inſtructors; there is certainly more certain notice of things, and better expoſitions of Scriptures now then formerly, but becauſe he that is to rely upon the authority of his guide, cannot chooſe by reaſons, he can hardly tell now where to finde them upon that account. There is more gold now then before, but it is more allayed in the running, or ſo hidden in heaps of tinſel, that when men are beſt pleaſed, now adays they are moſt commonly cozened.

4. If a man will take the middle ages, he may if he will, and that is all that can

can be ſaid in it; for there can be no reaſon for it, but much againſt it. *Ego ſanè veteres veneror, & tantis Nominibus ſemper aſſurgo. Verùm inter externa ætatem eſſe ſcio, omniáque non eſſe apud Majores meliora.* I for my part doe more reverence the Ancients, and uſe to riſe up and bow my head to ſuch reverend names, as S. *Irenæus*, S. *Cyprian*, *Origen*, S. *Hierome*, S. *Auſtin*; but I reckon *age* amongſt things that are without, it enters not into the conſtitution of truth; and this I know, that amongſt theſe Ancients, not all their ſayings are the beſt. And on the other ſide, although Antiquity is a gentle prejudice, and hath ſome authority, though no certainty or infallibility; ſo I know that novelty is a harder prejudice, and brings along with it no authority, but yet it is not a certain condemnation.

Quòd ſi tam Græcis novitas inviſa fuiſſet
Quàm eſt nobis, quid nunc eſſet vetus, aut quid haberet
Quod legeret, tereretque viciſsim publicus uſus.

Horat. l. 2. ep. 1.

If our Fathers in Religion had refuſed every expoſition of Scripture that was new, we ſhould by this time have had nothing old; But in this caſe what *Martial* ſaid of friendſhips, we may ſay of truths:

Nec me, quòd novus ſum tibi, recuſes:
Omnes hoc veteres tui ſodales fuerunt.
Tu tantùm inſpice qui novus paratur
An poſsit fieri vetus ſodalis.

Videat lector epiſt. 19. Sancti Auguſtini; quæ eſt ad Hieronymum. & epiſt. ad Fortunatum.

Refuſe nothing onely becauſe it is new. For that which pretends to age now, was once in infancy; onely ſee if this new thing be fit to be entertained, and kept till it be old; That is, as the thing is in it ſelf, not as it is in age, ſo it is to be valued, and ſo alſo are the men; for in this, as in all the other, the ſubject matter will help forward to the choice of a guide.

1. The analogy of faith.
2. The piety of a propoſition.
3. The ſafety of it, and its immunity from ſin; theſe are right meaſures to gueſs at an article, but theſe are more intrinſecal, and ſometimes ſo difficult, that they cannot be made uſe of but by thoſe who can judge of reaſon, and leſs need to be conducted by authority. But for theſe other who are wholly to be led by the power and ſentence of their guide, beſides what hath been already adviſed.
4. The faculty and profeſſion of men is much to be regarded, as that we truſt *Divines* in matters proper to their cogniſance, and *Lawyers* in their faculty; which advice is to be conducted by theſe meaſures.

When the Authority of Divines is to be preferred, when that of Lawyers.

5. 1. The whole duty of a Chriſtian conſiſts in the laws of *Faith* or *Religion*, of *Sobriety*, and of *Juſtice*; and it is ſo great a work, that it is no more then needs that all the orders of wiſe and learned men ſhould conduct and miniſter to it. But ſome portions of our duty are *perſonal*, and ſome are *relative*, ſome are *private*, and ſome are *publick*; ſome are limited by the Laws of God onely, and ſome alſo by the Laws of men; ſome are directed by nature, ſome by uſe and experience; and to ſome of theſe portions *contemplative men* can give beſt aſſiſtances, and *the men of the world*, and *buſineſs* can give beſt help in the other neceſſities. Now becauſe Divines are therefore in many degrees ſeparate from *an active life*, that they may with leiſure attend to the conduct of things *ſpiritual*, and are choſen as *the Miniſters of mercy*, and *the great reconcilers of the world*, and therefore are forbidden to intermeddle in queſtions of blood: and becauſe

becauſe the affairs of the world in many inſtances are ſo intangled, ſo unconducing to the affairs of the ſpirit, ſo ſtubborn that they are hardly to be manag'd by a meek perſon, carried on by ſo much violence, that they are not to be reſcued from being injurious but by a violence that is greater but more juſt; and becauſe the intereſts of men are complicated and difficult, defended by cuſtoms, preſerved in records, ſecur'd by ſentences of Judges, and yet admit variety by ſo many accidents, circumſtances, and conſiderations, as will require the attendance of one whole ſort of men, and of all men in the world *Divines* are the leaſt fit to be imployed in ſuch troubles and contracts, ſuch violences and oppoſitions, and yet they are ſo neceſſary, that without them the government of the world would be infinitely diſordered, it is requiſite that theſe ſhould be permitted to a diſtinct profeſſion. In particular matters of *juſtice ordinarily* and regularly *Lawyers* are the moſt competent Judges: In matters of *Religion* and *Sobriety*, the office of Divines is ſo *wholly* or *principally* imployed, that it ought to be choſen for our guide.

6 2. *In matters of Juſtice* which are to be conducted by *general* Rules, *Theology* is the beſt Conductreſs; and the *Lawyers* skill is but ſubſervient and *miniſtring*. The reaſon for both is the ſame, becauſe all the general meaſures of juſtice are the Laws of God, and therefore cognoſcible by the Miniſters of Religion; but becauſe theſe general meaſures, like a great river into little ſtreams, are deduced into little rivulets and particularities by the laws and cuſtomes, by the ſentences and agreements of men, therefore they muſt ſlip from the hands of the *ſpiritual man* to the *prudent* and *ſecular*. The *Divine* can condemne all injuſtice, murder, inceſt, injurious dealing; but whether all *homicide* be *murder*, all marriage of kindred be *inceſt*, or taking that which another man poſſeſſes be *injuſtice*, muſt be determined by Laws, and the learned in them; and though *Divines* may rule all theſe caſes as well as any of the long Robe, yet it is by their prudence and skill in Law, not by the proper notices of Theology.

7. 3. But juſtice is like a knife, and hath a back and an edge, and there is a letter and a ſpirit in all Laws, and *juſtice* it ſelf is to be conducted with *piety*, and there are modalities, and meaſures, and manners of doing or ſuffering in humane entercourſes; and many things are *juſt* which are not *neceſſary*, and there are exceſſes and rigours in juſtice which are to be moderated, and there are evil and intangling circumſtances which make ſeveral inſtances to juſtle one another; and one muſt be ſerv'd firſt, and another muſt ſtay its ſeaſon; and in paying money there is an *ordo ad animam*, and juſtice is to be done for *Gods ſake*, and at ſome times, and in ſome circumſtances for charities ſake; and the Law compels to pay him firſt that requires firſt; but in conſcience, juſtice is oftentimes to be adminiſtred with other meaſures: ſo that as *prudence* ſometimes muſt be called to counſel in the conduct of *piety*, ſo muſt *piety* oftentimes lead in *juſtice*, and juſtice it ſelf muſt be *ſanctified by the word of God and prayer*, and will then goe on towards heaven, when both Robes like *Paranymphs* attending a Virgin in the ſolemnities of her marriage, help to lead and to adorn her.

8. 4. Sometimes *Humane* Laws and *Divine* ſtand face to face and oppoſe each other, not onely in the direct ſanction (which does not often happen) but very often in the execution. Sometimes obedience to a humane Law will deſtroy charity, ſometimes juſtice is againſt piety, ſometimes piety ſeems leſs conſiſtent with Religion. The *Church* is poor, our *Parents* are neceſſitous, the fabricks of the Houſes of Prayer are ruinous, and we are not able to make ſupplies

plies to all theſe; Here what is juſt, and what is duty, not the Law, but *Theology* will determine. I owe *Sempronius* a ſmall ſumme of money; it happens that he comes to demand it when the gatherers of *Gabels* are preſent to demand an equal ſumme for Taxes; here I am to ask my *Confeſſor*, not my Lawyer whether of the two muſt be ſerv'd, ſince I cannot pay both: and in this caſe the Miniſters of Religion are the guards and defenſatives of her intereſt: Concerning which for the preſent, I onely inſert this Caution; That when Religion and Juſtice are in conteſt, the *Miniſters of Religion* are not always bound to give ſentence on the ſide of Religion, but to conſider which is the more neceſſary, and where the preſent duty ſtands; for ſometimes it is abſolutely neceſſary to doe juſtice, and actions of particular Religion muſt attend their ſeaſon. But then even juſtice turns into Religion, and when it does ſo, *Theology* muſt conduct her into action.

9. 5. When the queſtion concerns an intereſt, relative to either faculty, it is hard choosing the authority on either part, for one judges for it ſelf, and the other againſt his adverſary; that is, in effect they are both Judges in their own cauſe. It is notorious in the Church of *Rome*, where the *Canoniſts* ſay, That a Canon Lawyer is to be preferr'd before a Divine in elections to *Biſhopricks*; but you muſt think, the Divines ſay that themſelves are farre the fitter. The *Canoniſts* ſay that Prædial tithes are due *by Divine right*. The *Divines* ſay they are onely due by *poſitive conſtitution*. The ſecret of that is, becauſe moſt of the *Divines* that write books are Monks and Friers, and ſuch which are no friends to Pariſhes, that the *Pope* may be allowed to have power to take tithes from the Pariſh Prieſts, and give them to the *Monaſteries*; which he could not doe, if by Divine right they were annexed to their proper Cures. Amongſt us the tables are turn'd, and the Lawyers take the Friers part, and the Divines generally affirm the Divine right of tithes. Concerning which it is to be conſidered, that though the authority of either part is not of it ſelf ſufficient to determine a doubting perſon, and where intereſt is apparent, the *perſon* perſwading *loſes much of his authority*, yet *the propoſition* it ſelf *ought not to loſe any thing*. The intereſt appearing is no more warrant to disbeleeve the propoſition, then it is to beleeve it. In this caſe there is intereſt on both ſides, and therefore as to that the caſe is indifferent. The way to proceed is to conſider the proper inſtruments of perſwaſion, and becauſe a truth is not the worſe for ſerving his ends that teaches it, I am to attend to his arguments without any prejudice. But if I am not able to judge of the reaſons, but muſt be led by authority, the preſumption lies for the *Divines*, I am to beleeve them rather then the *Lawyers* in ſuch queſtions, becauſe there is ſome Religion in doing ſo, and a relation to God, for whoſe ſake it is, that I chooſe to obey their propoſition.

10. 6. Where by the favour of *Princes* or *Common-wealths* any matters of Juſtice are reſerved to Eccleſiaſtical cogniſance, in thoſe affairs the authority of *Divines* is to be preferr'd before that of *Lawyers*, becauſe the perſonal capacities of the men being equal in all things, the *Divines* are exerciſed in the ſame matters, and therefore are both concern'd and able, inſtructed and engaged, and though the Lawyers are to be ſuppoſed honeſt, and juſt, and wiſe, yet all that alſo is to be ſuppoſed in *Divines*, with ſome advantages of Religion, and tenderneſs which is bred in them by their perpetual converſation with the things of God. But in all things he comes the neareſt to a ſure way of being guided, who does his beſt and with greateſt honeſty of heart, and ſimplicity of pious deſires to be truly informed. It was well ſaid of *Socrates*,

An

An placeant Deo quæ feci, neſcio; hoc certò ſcio, me ſedulò hoc egiſſe ut placerent. The things which I have done, whether they pleaſe God or no, I know not; but this I know aſſuredly, that I did earneſtly deſire, and diligently take care that they might pleaſe him.

11. If the queſtion be concerning other diviſions of men, as of *Schoolmen* and *Caſuiſts*, *Criticks* or *Preachers*, the anſwer can be no other, but that in all faculties relating to any parts of Religion, as there are very wiſe men, and very weak men, ſo there are ſome to be preferr'd in each faculty, if we could finde out who they are: but this *prælation* is relative to the men, not to the faculty, if they were rightly handled. For the ſeveral faculties are nothing but the proper portion of matter aſſign'd to the conſideration of an order of men, in a proper method; but the great end is the ſame, onely the means of perſwading the ſame truth is different. But in the *Church of Rome* they are made ſeveral Trades, and have diſtinct principles, and ſerve ſpecial and diſunited ends and intereſts; and therefore which of them is to be preferr'd, as to the making a probable opinion is juſt to be anſwered, as if we ſhould ask which is beſt of *feathers* or *wooll*; they both of them have their excellencies in order to warmth, and yet if you offer to ſwallow them down, they will infallibly choke you.

RULE II.

He that hath given aſſent to one part of a probable opinion, may lawfully depoſe that Conſcience, and that opinion upon confidence of the ſentence of another.

1. THE Curate of S. *Martin* being ſent for to doe his laſt offices to a dying man, finds him ſpeechleſs, but yet giving ſigns of his penitence, as beating his breaſts, weeping and groaning, holding up his hands, and looking pitifully, and in a penitent poſture: The Curate having read it, diſputed whether ſuch a perſon may be abſolved, concerning whoſe repentance he can have no other teſtimony but mute ſigns, which may be produced by other cauſes, and finding arguments on both ſides, conſents to the negative as probable; and yet finding learned perſons there who are of another opinion, lays aſide the practices of his own opinion, and in compliance with the other, abſolves the ſick man. One that was preſent, and underſtood the whole proceſs, inquires whether he did well or no, as ſuppoſing that to doe againſt his own opinion is to doe againſt his conſcience; and a mans own conſcience *is more to him then ten watchmen that keep a city.*

2. In anſwer to this, it is to be conſidered there is a double conſent to a propoſition, the one is *direct*, the other a *reflex*; the firſt is directly terminated upon the honeſty or diſhoneſty of the object, the other upon the *manner* of it, and *modality*. For inſtance, the Curate does not directly conſent to that part of the queſtion which he hath choſen, as that which he will finally rely upon, but he conſents to it onely as a thing that is *probable*; If he were fully perſwaded of the article as a thing *certain*, or as *neceſſary* (though of it ſelf it

it be not ſo) or if he thinks it is not to be altered, then to doe againſt his *opinion* were to doe againſt his *conſcience*, becauſe the *opinion* were paſs'd the region of *ſpeculation*, and *ineffective notion*, and is become a *rule* and *immediate meaſure* of action. But becauſe he beleeves it onely *probable*, that is ſuch, in which he is not *certain*; but may be *deceived*, and may uſe liberty, he may as well chooſe that part of the *probability* which derives from the reputation and abilities of other men, as well as that which proceeds from conſiderations of thoſe little intrinſick arguments which mov'd his aſſent lightly like a breath upon the waters, or the ſmile of an undiſcerning infant. His own *opinion* is well enough concerning the *honeſty of the object*, but yet he that chooſes the other part may make an *honeſt election*; for his own *opinion* reflecting upon it ſelf, not going beyond the ſtage of *uncertainty* and *probability* does openly challenge its own right of chooſing another part; the conſcience is no ways intangled and determined, but ſo chooſes that it may chooſe again, if ſhe ſees cauſe for it, a cauſe in the particular caſe, which ſhe eſpied not in the abſtracted queſtion.

3. For he may prudently ſuppoſe that in what he is not certainly perſwaded, another may be wiſer and know more, and can judge ſurer: and if he have reaſon to think ſo, it may be a greater reaſon then that is by which himſelf did chooſe his own *opinion* and part of the *probability*; and he may have reaſon to think meanly of himſelf, and he may remember ſad ſtories of his frequent deception, and be conſcious of his own unaptneſs to paſs an honeſt unbiaſſed ſentence, and hath no reaſon to truſt himſelf in matters of proper *intereſt* or *relation*.

4. This Rule hath no other variety in it but that it be managed by theſe Cautions.

1. That the man upon whom we rely, be neither ignorant nor vicious, ſo farre as we can judge, and ſo farre as relates to the preſent queſtion, that is, that he be a perſon fit to be a guide of others.

2. That relying on others proceed not out of idleneſs, and impatience to inquire our ſelves.

3. That the opinion of the other be not choſen becauſe it better ſerves my ends or humour, but upon the preceding grounds of humility and mean opinion of my ſelf, and great opinion of the other.

4. That it be onely againſt his own probable perſwaſion ſo known, ſo conſidered, not againſt a *ſure conſcience*; that is, that it be in ſuch a matter, in which the aſſent is but imperfect, and relying upon unſure inducements. For then he may as honeſtly truſt the others prudence as his own weakneſs, the others leiſure and conſideration, as his own want of time and aptneſſes to conſider: and ſince the actions of moſt men in the world are conducted by the wit of others in very many things, and of all men in ſome things, it cannot be imprudence to take a guide to direct the conſcience in what it is not ſufficiently inſtructed by its own proviſions.

5. If the entercourſe happen between the ſuperior and the inferior, the liberty of changing our part of the probability is confirmed by a want of liberty to diſſent. The ſubject may change his opinion, becauſe he muſt obey where ever it is poſſible that he ſhould; and that is in this caſe: in which it is not onely true that the opinion is probable in it ſelf, but that it and its contrary be both apprehended as probably true, and ſafely practicable. For then there is no excuſe to the man, and the conſcience of the article cannot be pretended

againſt the conſcience of obedience; and if it be lawful to obey, it is neceſſary to obey. *Hoc amo quod poſſum quâlibet vire viâ*, every man loves his liberty, but this liberty does ingage our obedience; we might not obey our ſuperior if God had ingaged us in the contrary; but we may, when we are perſwaded that the contrary opinion is *probable*, that is, *conformable to reaſon*, and fit enough to guide him that is not finally determined in his conſcience to the contrary. For if it could be otherwiſe, then there were nothing to be given to authority; for in equal probabilities, it is likely if I chooſe one part, I am determined by a little thing, by a trifle, by a chance, by a humour; and if I be weighed down by never ſuch a trifle, yet I am determined to the choice of one ſide, and it will be but an evil portion to authority, if it cannot be permitted to outweigh a humour, and a chance; an ignorant confidence, or a vain preſumption: and although it will be hard ſometimes for a man to be convinced of the vanity of his argument, yet when his opinion is not onely ſpeculatively but practically probable, that is, when it is conſidered onely as probable, and the contrary altogether, or almoſt as well thought of, the arguments of the preſent perſwaſion are confeſſed to be but little, becauſe they neither perſwade, nor abuſe beyond a probability; and therefore in this caſe to out-face authority, is without *pretence*, as much as it is without *warrant*. And this is affirmed by S. *Auſtin* in the caſe of Souldiers under a King, taking pay in a cauſe which either is juſt, or that they are not ſure it is unjuſt. *Ergo vir juſtus ſi forte etiam ſub Rege homine ſacrilego militet, rectè poteſt illo jubente bellare, ſi vice pacis ordinem ſervans, quod ſibi jubetur, vel non eſſe contra Dei præceptum certum eſt, vel utrum ſit, certum non eſt.*

Lib. 22. contr. Fauſtum cap. 74. & habetur cap. Quid culpatur 23. qu. 1.

6. But if the entercourſe happen between a Phyſitian and a Patient, it is made to differ. For 1. A Phyſitian may not leave a certain way, and take an uncertain in the queſtion of life or health; In matters of meer opinion, the very perſwaſion and probability of aſſent is warrant enough for the man, and the effect is innocent; but when ſo great an intereſt is ingaged, the man becomes faſter bound by the ſtricter ties of charity. It was a complaint that *Pliny* made of *Phyſicians* in his time, *Diſcunt periculis noſtris, & experientiam per mortes agunt, medicóque tantum occidiſſe impunitas ſumma eſt.* It is hard that a Phyſician ſhould grow wiſer at no cheaper rate then the deaths of many Patients. Now to doe the thing *directly* is intolerable, but to doe that which is not our beſt, and which is not ſafe, when we have by us that which is ſafe, and which we know is uſeful, is directly againſt charity, and juſtice, and prudence, and the faithfulneſs of a good man.

But 2. When a Phyſician hath no better, he may take that courſe which is probable, for that is his beſt; he cannot be required to more, and he is excuſed, becauſe he is required to miniſter. And this is yet more certain, if the ſick perſon ſhall die without Phyſick; but it is a venture whether the medicament may prevail for his cure or no. For then all the hazard is on the favourable ſide, and if it fails, the event is no worſe; and it is charity to offer at a Cure that is uncertainly good, but is certainly not evil.

3. When the opinions are on both ſides probable, he may take that which is in any ſenſe ſafer, or in any degree, or by any means more probable, that is, for the community of the opinion, or the advantage it hath by the learning and reputation of them that hold it: ſo that he may leave his own opinion which is overcome by the greater argument, or the greater authority of another, though both the *authority* be leſs then that which *binds*, and the *argument* leſs then that which is *certain*.

Rule

RULE 12.

He that inquires of ſeveral Doctors until he finde one anſwering according to his minde, cannot by that inquiry make his Conſcience ſafe; but according to the ſubject matter, and other circumſtances he may.

1. SAint *Paul* remarks the folly of ſuch men who *heap up Teachers of their own*, that is, ſuch who preach what they deſire, and declare things lawful which God never made ſo; and he that hath entertained an opinion, and is in love with it, and will ſeek out for a kinde and an indulgent nurſe for it, cannot ordinarily be the more ſecure for the opinion of his guide, becauſe the intrinſick motive of his aſſent is not his guide, but his own purpoſes and prediſpoſing thoughts and reſolutions; and the getting of a learned man to ſay ſo, is but an artifice to quiet the ſpirit, and make it reſt in the deception if it ſo happens to be. This determination from without may poſſibly adde a phantaſtick peace, but no moment to the honeſty of the perſwaſion or conſcience, becauſe the *conſcience* was not ready to rely upon the authority, but reſolved to goe ſomewhere elſe for an *authority*, if here it could not be had: and therefore the conſcience could not be made *probable* by the authority, becauſe the reſolution of the conſcience was antecedent to it.

2. This is true *ordinarily* and *regularly*, and there are uſually many appendant deceptions; as an *impatient deſire* to have that true which I deſire, a *willingneſs* to be deceived, a *reſolution* to bring our ends about, a conſequent uſing means of being pleaſed and cozened, a concealing ſome circumſtances, and a falſe ſtating of the queſtion, which is an infallible ſign of an evil conſcience, and a minde reſolved upon the concluſion, deſirous of a ſecurity, or ſleepy quietneſs, and incurious of truth. But yet there are ſome caſes in which this changing of guides and inquiries is not onely innocent, but an inſtrument of a juſt confidence.

3. 1. When the inquirer hath very probable inducements for his opinion, and remains really unſatisfied in the anſwers and accounts of the firſt Doctors.

2. When he hath an indifferency to any part that may appear true, but it falls out that nothing does ſeem true to him but what he hath already entertained.

3. When the aſſent to our own propoſition is determined, ſo as to avoid a real doubt or perplexity, but yet a ſcruple remains, that is, ſome little degrees of confidence are wanting, which cannot be better ſupplied then by an extrinſecal argument, the authority of a wiſe man.

4. When the inquiring perſon is under a weakneſs and temptation, and wants ſome to apply his own notices to him, and to make them operative and perſwaſive upon his ſpirit; as it happens to very many men always, and to all men ſometimes.

5. When the caſe is favourable and apt for pity and releef, as in the dangers of deſpair, then the inquirer not onely may, but ought to goe till he finde a perſon that can ſpeak comfort to him upon true grounds of Scripture and revelation.

6. When the purpoſe of the inquirer is to be landed upon any virtue, and pious ſtate of life or deſign, he may receive his incouragement and final determination from him whom he chooſes for his opinion ſake, and conformity to his own pious intentions.

4. The reaſon of theſe exceptions is this: Becauſe the matter being juſt, favourable, and innocent, the man goes right, and by being confirmed in his way, receives no detriment to his ſoul or his duty; and becauſe they are tendencies to duty, it is to be preſumed that the inquirer intends honeſtly and piouſly: and now ſince the way is ſecure, and the perſon well intending, if the inſtrument of eſtabliſhing this good courſe were very incompetent, it might be an imperfection in nature, but not in morality.

Rule 13.

He that is asked concerning a caſe that is on either ſide probable, may anſwer againſt his own opinion, if the contrary be probable and more ſafe, or more expedient and favourable.

1. THE reaſon is, becauſe he that holds an opinion which himſelf beleeves onely to be *probable*, knows alſo there is no neceſſity in counſelling it to another, becauſe it is not certainly true; and he may rather counſel the contrary to another then follow it himſelf, becauſe himſelf is already determined, which the other is not, but is indifferent.

2. But why he ſhould rather doe ſo then counſel his own opinion, there is no reaſon in the thing, but ſomething relating to the perſon inquiring; as if the opinion which he maintains not, be more agreeable with the others circumſtances and neceſſities. *Codrus* inquires if he be tied to reſtitution of all the fruits of a field which he held in a dubious title. The Curate thinks it to be a probable opinion, that he is bound; but becauſe *Codrus* is poor, or apt to break the bridle of Religion if it holds him too hard, he may counſel him according to the opinion of them that affirm that he is not bound to reſtitution. If he be asked what his own opinion is, he muſt not ſpeak contrary to it: But when the queſtion onely is asked in order to a reſolution, he may point to goe that way where by his own ſentence he may be ſafe, and by reaſon of the others neceſſities he may be more advantaged. The reaſon of this is, becauſe when two opinions are equally probable, the ſcales are turn'd by piety, or charity, or any good thing that is of collateral regard, and therefore makes a greater degree of artificial probability, and is in ſuch caſes ſufficient for determination. For in direct reaſon the caſe is equal, and in the indirect there is great advantage on the ſide of charity, or accidental neceſſity, or compliance with any fair and juſt intereſt. Chriſtian Religion is the beſt natur'd inſtitution in the world.

3. The like caſe it is, when the opinion of the Curate is ſuch, that the inquirer will probably abuſe it to licenciouſneſs and evil miſtake; for then the Curate may prudently conceal his own ſentence, and borrow his brothers candle to light a perſon that is in danger.

Rule

RULE 14.

When the guide of ſouls is of a different opinion from his charge or penitent, he is not bound to exact conformity to his own opinion that is but probable, but may proceed according to the conſcience of the penitent.

1. THat is, ſuppoſing the opinion of the penitent to be *probable*, and that he did the action *bonâ fide*, and as an act *commendable*, or *permitted*; he is not to be troubled with what is paſt, leſt that be turned into a ſcruple which was no ſin, and leſt the Curate judge unrighteous judgement, and preſcribe afflictions for that for which God ſhall never call him to judgement; for in this caſe it is, that no man can be the judge of another mans conſcience.

2. But if the opinion of the *penitent* be certainly falſe, or the *parent*, or *protector*, or the *occaſion* of a ſin, the guide of his ſoul muſt not comply at all with it, but diſcover the error and the danger. He that kills his brother becauſe he is zealous in another opinion, and thinks he does God good ſervice, muſt not be permitted in his erring conſcience, and criminal perſwaſion; for the matter hath altered the caſe, and in the relations of duty, the *error* is always *vincible*, and therefore *intolerable*: and therefore *Peter Lombard*'s Mother upon her death-bed was admoniſhed to confeſs her ſin in having three children by illegal mixtures, though ſhe was fooliſhly perſwaded it was no ſin, becauſe her ſons did prove to be ſuch excellent perſons, and inſtruments of Divine glory.

RULE 15.

The ſentence and arbitrement of a prudent and good man, though it be of it ſelf but probable, yet is more then a probable warranty to actions otherwiſe undeterminable.

Sicut vir prudens eam definierit, is the great meaſure which *Ariſtotle* and all the moral Philoſophers aſſign to very many caſes and queſtions. If two caſes that ſeem equally probable, have in them different degrees of ſafety, that the ſafeſt is to be choſen is certain; but oftentimes the ſentence and opinion of a good man is the onely rule by which we judge concerning ſafety. * When piety and religion are in competition for our preſent attendance, ſometimes piety to our Parents is to be preferr'd, ſometimes an action of religion in its own ſeaſon; but what portion of our ſervices is to be allowed to the one and the other is *ſicut vir prudens definierit*, according as a good and a prudent man ſhall determine. * To bury the dead is good, to releeve the living poor is ordinarily better; but yet there was a time in which there was a proper ſeaſon for that, and not for this; and our bleſſed Saviour commended *Maries* devo-

tion and choice in ſo doing, but when we alſo may doe one or the other, depends upon circumſtances and accidents which are not immediately the ſubject of Laws, but of prudent conſideration. * Humane Laws binde the conſcience of their Subjects, but yet give place to juſt and charitable cauſes; but which are competent and ſufficient is not expreſly and minutely declared, but is to be defined by the moderation and prudence of a good man. * That we are to be careful in the conduct of our temporal affairs, in paying of our debts, in making proviſions for our children is certain and confeſſed: but beſides the general meaſures and limits of carefulneſs deſcribed by our bleſſed Saviour, our earneſtneſs of proſecution, our acts of proviſion and labour are to be eſteemed regular or irregular by the ſentence of a wiſe and a good man. The ſignifications of love to our children and neareſt relatives, the meaſures of compliance with the faſhions of the world, the degrees of ornament or neglect in clothing, intention of our actions and paſſions, and their degrees, the uſe and neceſſities and pretences for omiſſions in good things, and generally all the accidental appendages of action are determinable onely this way; and a probability is enough to determine us; but that this is the way of introducing the probability is upon this reaſon; becauſe next to the proviſion of Laws, ſtands the man who is obedient to Laws and underſtands them, and next to the reaſon of the Law, ſtands the analogy and proportion of thoſe Laws; and therefore this is the next beſt to the Laws, it ſtands neareſt to reaſon, is the beſt guide that is left us, and therefore a proper meaſure of conſcience in the deſtitution of that which is moſt proper.

" There are many other Rules concerning the exerciſe of a probable Con-
" ſcience, in the caſes and queſtions of Kings and Prieſts, of Advocates
" and Judges, in matters of Sacraments and Government, which are
" to be referred to the place of their proper matter; but this is alſo to be
" determined by the Rules here aſſigned, and have no particular conſi-
" deration, except what meerly relates to the matter.

CHAP. V.

Of a doubtful Conſcience.

Rule I.

A doubtful Conſcience aſſents to neither ſide of the queſtion, and brings no direct obligation.

1. THE *Conſcience* being in its proper operations *poſitive* and *practical*; when it is neither, it is not properly and directly *conſcience*; and becauſe it binds to obedience by its determination and aſſent, and its conſequent inclining the will, when the underſtanding is not determined, nor the will inclined, there can no action follow, but a total ſuſpenſion of action is its proper conſequent.

2. But upon this there is onely a reflex act of *Conſcience* and *Underſtanding*; for by conſidering that our conſcience is doubtful, and indeterminable,

we

we are obliged to ſuſpend our action; but then this is the act, not of a *doubtful*, but of a *right* conſcience, becauſe in this we are *certain*, and *right*, and *determined*: ſo that *a doubtful conſcience* is but an *æquivocal* and *improper conſcience*; like an unreſolved will, or an artiſt with his hands bound behinde him: that is, the man hath a conſcience, but it is then in chains and fetters, and he wears a hood upon his eye, and his arm in a ſtring, and is onely to be taught how to cut the knot, and to doe ſome little things of advantage, or ſecurity to his intermedial ſtate of impediment; but a *doubtful conſcience* can be no rule of humane actions.

3. But yet ſome collateral and indirect obligations are paſs'd upon the man by that ſtate of infelicity, according to the nature of the doubt.

4. In order to which, *doubts* are conſidered, either as relating to the *Law*, or as relating to *matters of fact*, viz. *whether* ſuch a thing be lawful or not? or *whether* I did ſuch an action or no, by which I am bound to reſtitution or repentance?

5. Doubts alſo are *Negative*, or *Poſitive*, that is, they are ſtill upon us becauſe there is no means to determine the underſtanding; as no man can ever be reſolved whether the number of the ſtarres be even or odde; when is the preciſe minute in which a man firſt comes to the uſe of reaſon; and this is called a *Negative doubt*. *The Poſitive* enters by the indifferency of the arguments, and their equal weight on both ſides: as if it be doubted whether the ſouls departed enjoy the beatifick viſion before the day of Judgement? whether Reſidence on a Benefice be an indiſpenſable precept, or in what caſes it obliges not? whether Eccleſiaſtical perſons be bound *by juſtice* or *by charity* to give all that they can prudently ſpare to the poor? Theſe are *poſitive doubts*, becauſe there are many arguments on either ſide.

6. The *Negative doubt* is either *Metaphyſical* or *Moral*, or it is onely a *Suſpicion*; that is, theſe are ſeveral degrees of ſuch a doubt, for the determination of which there is no ſufficient inſtrument.

7. Laſtly, ſometimes a doubt is placed onely in the *underſtanding*, without any other effect but the trouble of thoughts; and then for methods ſake, and right underſtanding of the rules of practice, it is called *a ſpeculative doubt*. Sometimes this doubt paſſes on to the *conſcience*, and hath influence upon the action or event; ſo as to be an impediment to it, or the ſpoil of it, that is, ſo as to cauſe that it ſhall not be done, or if it be done that it becomes a ſin: and this is called *a practical doubt*.

According to theſe diſtinctions the following Rules are uſeful in order to practice.

RULE 2.

A negative doubt neither binds to action, nor inquiry, nor repentance; but it binds onely to caution and obſervance.

1. 1. THat *it binds not to action*] I affirm upon the ſame ground, by which the ſame is affirmed concerning all doubting conſciences. *It binds from action*; for whatſoever is done with *a doubting conſcience* (that is, *without faith*, or

or fulneſs of perſwaſion that it is lawful to doe it) is a ſin. S. *Paul* gave us the Rule, *Whatſoever is not of faith is ſin. Quod dubitas nè feceris*, ſaid *Cicero*. For if we doe it with a doubting conſcience, we doe it without our Rule, which is the *dictate of our conſcience*, and ſince no action is indifferent between *lawful* and *unlawful* (though between good and bad there may) to doe without our Rule of lawful and permitted is to doe againſt it, even that which is not permitted, and therefore is unlawful. Adde to this,

Rom 14.23.

2. He that does not know whether it be lawful or no, does that which he is not ſure but it may be forbidden by God, and diſpleaſing to him; and to doe that which I know not but may grieve my friend, or trouble him, cannot conſent with my love to him; and therefore every act of a doubting conſcience is againſt charity. In the queſtion of lawful or unlawful, not to know it to be lawful, is to enter upon it with a minde willing to admit the unlawful; it is all one to be in the dark, as to be without a candle or a ſtarre, and either of them is as bad, as full of ignorance and obſcurity, as if we ſhut our eyes, or put the candle out. When therefore it happens that our conſcience doubts whether ſuch an act be a ſin or no, a good man will be ſure not to ſin; but in that caſe, and while the doubt remains, he can have no ſecurity, but by not doing it.

2. 2. *It binds not to inquiry*] becauſe there is no competent means to finde out a reſolution; for that is the ſtate of the Queſtion, that is the definition of a *Negative doubt*. *Fabiola* doubts whether in her childhood ſhe did never take Gods name in vain; and although ſhe be bound to inquire in all the reaſonable and remembred parts of her life, becauſe of them ſhe may finde ſome records, and in that caſe the *doubt* is not *negative*; yet of the ſtate of childhood ſhe cannot be obliged to make inquiry, becauſe there was then no Law, no Regiſter, no Court kept, no judgement, no choice; that is, *ſhe cannot be obliged to an effect that is impoſſible, and to an act that is to no purpoſe.*

3. 3. *It binds not to repentance.*] In caſe ſhe fears exceedingly, ſuppoſing this ſtill to be a *Negative doubt*, that is, ſuch a one, for the proper reſolution of which there are no competent arguments or inſtruments. *Fabiola* not knowing whether ſhe did or no, and it being impoſſible afterwards to finde it out, *Fabiola* i not tied to ask forgiveneſs for the blaſphemies of her childhood: For no obligation can come from what is not, or cannot be known.

4. This is to be underſtood to be true of that ſort of *Negative doubt* which it called *Metaphyſical*, when there is no poſſibility of knowing; as it is impoſſible to know what little prety phantaſm made us to ſmile when we hanged upon our Mothers breaſts; and the doubt is onely founded upon the poſſibility that the thing might have been, though now it be impoſſible to finde out whether it was or no. It is poſſible that being a child I might laugh at Scripture, or mock an Apoſtle; but if this could bring an obligation to an act of repentance, then the ſame obligation paſſes upon all men in all actions and periods of their lives, for all things, and in all caſes in which they doe not remember all, or did not obſerve every circumſtance, or did not conſider every minute, or weigh every degree. For in every thing there is a poſſibility that I might have done ſomething very ill.

5. But there is a *Negative doubt* which is called *Morally negative*; that is, when there is no way of being readily and clearly determined, but yet the doubt

doubt is founded upon ſome light conjecture, and no more. *I was tempted*, or *I had an opportunity*, or *an evil thought came croſs me*, and I know my own infirmity; and this according to the degrees of the conjecture can oblige us to a general and conditional repentance; thus, if I did amiſs, God of his mercy impute it not unto me. *I know not, my conſcience does not accuſe me*, (ſo S. *Paul*) but *I am not hereby juſtified*; *God is greater then my conſcience*. By this, ſet the words of S. *John*, and they will determine the caſe: *If our hearts condemne us not, then have we peace towards God*; that is, *the doubt in this matter ought to be laid down*, if our hearts doe not paſs ſentence againſt us; but not ſo wholly but that we may provide againſt a danger not actually felt: We ought to be peaceful, but not too confident, when there is any probability of error and deception. The *peace* is warranted by S. *John*, the *warineſs* is exemplified in S. *Paul*.

6. 4. *It does binde to caution and obſervance.*] Every thing does ſo, where either there *is a danger*, or any is *ſuſpected*, or any is *poſſible*, or any *ever was*: and therefore, for this there needs no peculiar reaſon, onely according to the approach of the *negative doubt* to any degrees of its being poſitive; that is, to a probability that it is as we doubt, the obſervance ought to be ſtricter, and the caution more ſevere, which happens in that *imperfect* kinde of *imperfection*, in *ſuſpicion*, which is but the image of *doubting*.

7. For there is yet another ſort of doubting, which may be called a *privative doubt*. *Titius* is invited to eat with one of another communion. Firſt he checks at it, but becauſe *he knows no reaſon againſt it*, nor indeed did ever diſpute, or hear the queſtion diſputed, whether it be lawful or no, he goes. The queſtion is, whether he did well or no?

8. Concerning which the caſe is evident, that *whatſoever is not of faith is ſin*, that is, if it be not done with a perſwaſion that it is lawful. But if a man be perſwaded that he may lawfully doe any thing againſt which he knows no Law, no Commandement, no Reaſon; this is *not a doubting conſcience*, but *a probable*, and therefore need not to abate the action. * But if this alſo turn into a *doubt*, the caſe is altered. For he that thinks *he may not doe it*, or doubts whether he may or no doe a thing *for which he hath no command*, or no poſitive and *affirmative warrant*, and that it is no ſufficient reaſon or warrant for the doing it that *he knows nothing againſt it*, unleſs he alſo have *ſomething for it*; this man thus perſwaded or abuſed, may not proceed to action. For in this caſe he hath nothing for it, and one great thing againſt it, even this propoſition, That *a thing is not to be done in ſuch a caſe*, which is the caſe of a *privative doubt*. But for the thing it ſelf, the next Rule gives an account of it.

RULE 3.

A privative doubt cannot of it ſelf hinder a man from acting what he is moved to by an extrinſick argument, or inducement that is in it ſelf prudent or innocent.

1. IT cannot of it ſelf hinder] that is, abſtracting from the circumſtance of accidental doubting or not doubting. The reaſon is, becauſe there being no Law againſt it by which he is actually ruled, and no reaſon appearing in defi-

ance

ance of it, that is, there being no *intrinſecal diſſwaſive*, the conſcience is onely left to be conducted or perſwaded by the *extrinſecal*.

2. For all actions are left indifferent till by a *ſuperinduced Law* they are reſtrained; which *ſuperinduced Law* wants its publication, if *inculpably* I have no notice of it in my conſcience. But this is to be allowed with this caution: That this entring upon actions againſt which we know no reaſon or law, be not *ſudden*, and *violent*, and *careleſs*, like the ruſhing of an horſe into a battel without conſideration; but that we conſider according to our *ſtrength*, and to our *time*, whether there be any reaſons for or againſt the act in queſtion, *and if we finde none, let us make none*; that is, let us not by our unreaſonable and impertinent doubting place a ſnare for our own feet, there where none is placed by the prohibition.

3. 2. If it be a matter that concerns the intereſt of another, let us always be the more wary, and remember, if there be nothing againſt it, there muſt be ſomething for it, either in the *matter*, or in the *manner*, either in *juſtice*, or in *charity*, or at leaſt by *the ſecurities of the ſafer part*, by which, if we finde no *reward*, yet we are ſure to finde *indemnity*.

4. This whole advice is of great uſe in the circumſtances of the duty that concerns the married pairs; in which the *Doctors* of *Caſes of Conſcience* have ſpoken what they pleaſe, and in many things wholly by *chance* or *fancy*; and the holy ſtate of marriage ought to be reſcued from many of their ſnares and intricacies by which they have troubled it, as will appear when I ſhall ſpeak to the Rules of that affair.

Rule 4.

In doubts of Right, or Law, we are always bound to inquire; but in doubts of fact not always.

1. THE reaſon is, becauſe ignorance of our duty is always a ſin, and therefore when we are in a perceiv'd, diſcernable ſtate of danger, he that refuſes to inquire after his duty, does not deſire to doe it.

2. In matters of fact we are bound *ordinarily* to inquire, becauſe we muſt not be ignorant of the ſtate of our conſciences, and what obligation there is to reſtitution, or repentance. which the more particular it is, the more perfect it is. But this I ſay, that though *ordinarily* it be true that we are obliged, yet in ſome caſes it may happen that it is ſafer to truſt the event of things with a general repentance, then that the conſcience of ſome men be tempted with a particular notice of the fact.

3. 1. This happens in thoſe that are weak-hearted, ſoft, and apt to every impreſſion in too deep a regard. A *Caſtilian* Gentleman being newly recovered from the ſad effects of a melancholy ſpirit, and an affrighting conſcience, and being entertained by ſome that waited on him with ſports and innocent paſtimes to divert his ſcaring thoughts; he with his company ſhot many arrows in a publick field at rovers: at that time there was a man kill'd, whether by his arrows or no, he knew not, and is forbidden to inquire; and his caſe had

in

in it reaſon enough to warrant the advice: The knowledge of it could not have done him ſo much good, as it would have done him hurt; and it was better he ſhould be permitted to *a doubting* then to *a deſpairing conſcience*, as in his caſe it was too likely to have happened. *It is better to be ſuſpected then to be ſeen.*

4. 2. This alſo is ſo to be adviſed, when the inquiry into the doubt of fact may be prejudicial to a third perſon. A Prieſt going to the Weſt-Indies by misfortune wounds one of his company, whom with much trouble and ſorrow, he leaves to be cured of his hurt, but paſſes on to his voyage, which he finiſhed at a huge diſtance from the place of his misfortune. The Merchants come the next year that way, and he is unwilling to inquire concerning his ſick friend; deſirous he was to know good of him, but infinitely fearful leſt he be dead: Conſulting therefore with his ſuperiour in the caſe, was directed not to inquire, upon this account; becauſe if the man were dead the Prieſt would be *irregular*, and a whole Pariſh unprovided for, and left without rites and Sacraments, and publick offices, which then and there could not eaſily be ſupplied.

5. But in matters of right or duty inquiry muſt be made, ever, when the queſtion is of the *lawfulneſs* or *unlawfulneſs* of what is to be done; becauſe we enter upon danger, and deſpiſe our own ſafety, and are careleſs of our duty, and not zealous for God, nor yet ſubjects of Conſcience, or of the Spirit of God, if we doe not well inquire of an action we are to doe, whether it be *good* or *bad*. But when the act is done, and done with an actual perſwaſion that it was lawful, the conſcience of that perſon is not eaſily to be diſturbed, which is to be underſtood with theſe cautions:

6. 1. When the queſtion was probable on either ſide, and at the time of acting, was choſen with its juſt meaſures and proviſions; then although the complice or partner of the act doe change his opinion, and think himſelf bound to repent, yet he is not bound to trouble the other. *Anthony* a Gentleman of *Parma* being in love with *Maria de Rupe*, being moved with great intereſts of his perſon, and a great neceſſity, conſummates his marriage before publication, they both of them being perſwaded that it is lawful. He afterwards changes his opinion, thinks it a ſin, and repents and begs pardon, but being alſo in doubt whether he ought to tell his wife of it, was adviſed to the contrary, upon this amongſt many other concurrent reaſons, becauſe what was innocently done, cannot be condemned in that in which it was innocent: for the man himſelf ought to be ſorrowful for his being deceived (if he thinks he was) but he cannot be tied to repent of the act, which ſuppoſing his then preſent perſwaſion was lawful, becauſe done according to a probable conſcience: and therefore much leſs ought he to diſturb the peace of his wife, whoſe perſwaſion remains the ſame as at firſt. What was not a ſin at firſt, cannot in that individual act become a ſin afterwards.

7. 2. This is alſo to be underſtood, when the act leaves no evil effect, or hath done no hurt to a third perſon; but if it doe, then my peace is not to be bought at the expence of anothers evil. No man is to be made better or left ſo, by anothers detriment; and therefore if a child were begotten in that unripe and haſty conſummation, and that child ſhould be declared baſtard, then the peace is to be diſturbed, and the inquiry on all hands to be curious and buſy, becauſe in all ſuch caſes there is ſomething of duty for the future concerned in it; ſometimes reſtitution, but always repentance in particular.

3. This

8. 3. This is alſo true when the fact that is paſt is not introductive of more and new inſtances; for if it was the wrong ſide of the probability which was choſen, and the ſame kinde of action is to return often, there the conſcience though heartily perſwaded, muſt be awakened from its ſecurity by him that beleeves it to be a ſin that was done, and then the intereſted party muſt inquire; the reaſon of this is, becauſe this concerns the future, and all the world when they enter upon action muſt *inquire anew* when they have reaſon to *doubt anew*, and they may be call'd upon, and muſt be better informed by them that can and are concerned. For the honour of God and the intereſt of his ſervice is in this caſe concerned, which in the other is not, when it onely relates to a ſingle and a paſt action, which was then lawful, and therefore will not afterwards be imputed.

9. 4. When the perſon intereſted does of himſelf doubt whether the paſt act was lawful or not, and deſires to be ſatisfied, and that there will be no evil effect in the alteration of his perſwaſion, then it is fit he be complied with in that which he judges to be for the intereſt of his ſoul, for this is certainly the better; the other way of concealing and not inquiring being onely permitted in ſome caſes, and with ſo many cautions and reſervations as are before expreſſed.

Rule 5.

In doubts the ſafer part is to be choſen.

1. WHen the Conſcience is doubtful, neither part can be choſen till the doubt be laid down; but to chooſe the ſafer part is an *extrinſecal* means inſtrumental to the depoſition of the doubt, and changing the conſcience from *doubtful* to *probable*. This Rule therefore does properly belong to the *probable conſcience*: for that the conſcience is *poſitively doubtful* is but accidental to the queſtion and appendant to the perſon. For the reaſons on either ſide make the conſcience *probable*, unleſs fear, or ſome other accident make the man not able to reſt on either ſide. For in matters of conſcience it is as hard to finde a caſe ſo equally probable that a man ſhall finde nothing without, or within to determine him, as it is to finde that which the Philoſophers call, *Temperamentum ad pondus*, a conſtitution ſo equal that no part ſhall excel the other. For if there were nothing in the things to diſtinguiſh them, yet in the man there is a natural propenſity which will make him love one ſort of arguments more then another. What can be more indifferent then to ſee two dogges fight? and yet no man ſees their cruelty, but he wiſhes better to one then to another: and although no opinions are ſo very even, yet if they were, the man hath an *acquiſite*, or elſe a *natural biaſs*, or ſomething of contingency that will determine him: and if the conſcience remains undetermined, ſo that he may not, or dare not venture upon either part, it is certainly a diſeaſe, or a direct infirmity. And becauſe ſuch perſons can doe nothing at all till their *doubtful* is changed into a *probable conſcience*, this diſcourſe muſt relate to that *conſcience* that is *probable*, though in compliance with the uſual ways of ſpeaking, I have placed it here.

2. 1. The Rule therefore is to be underſtood to be *good advice*, but not *neceſſary* in all caſes. For when the contrary opinion is the more *probable*, and this the

the more *ſafe*, to doe this is a prudent compliance, either with a *timorous* or with *an ignorant conſcience*; it is always an effect of *piety*, and a *ſtrong will* to good, but very often an effect of *a weak underſtanding*,; that is, ſuch an one which is inclined to ſcruple, and dares not truſt the truth of his propoſition, or God with his ſoul in the purſuance of it. And indeed ſometimes there is in this ſome little ſuſpicion of the event of things which muſt needs reflect upon the goodneſs of God, under whom we fancy we cannot be *ſo ſafe by purſuing that rule and guide* that he hath given us, that is, the beſt reaſon, and the faireſt inducement, *as we may be by relying upon the ſureneſs of the matter*. Indeed we our ſelves are ſo wholly immerged in matter that we are conducted by it, and its relations in very many things: But we may as well rely upon *formalities* and *ſpiritual ſecurities* (if we underſtood them) as upon the *material*; and it is as ſafe to rely upon the *ſurer ſide of reaſon* as upon *the ſurer ſide of the thing*. Now that which is the *more probable* hath the ſame advantage in conſtituting a conſcience *formally ſafe*, as the other *leſs probable* but *ſurer ſide* hath for the making the conſcience *ſafe materially*.

3. 2. If the *conſcience* be *probable*, and ſo evenly weighed that the determination on either ſide is *difficult*, then the ſafer ſide is ordinarily to be choſen, becauſe that helps to outweigh and determine the ſcale; that is, when reaſon and the proper motives of the queſtion are not ſufficient to determine it, let auxiliaries be taken from without, and if the conſcience be not made *ſecurer* by its *rule*, let it be made *ſafe* by the *material*. It is juſt as the building of an houſe. If the Architect be not wiſe and knowing how to ſecure the fabrick by rules of art, and advantages of complication, and the contexture of parts, let him ſupport it with pillars great and maſſy; for if the other be wanting, theſe will ſuſtain the roof ſure enough, but with ſome rudeneſs in the thing, and imperfection in the whole.

4. 3. If to that which is the *ſurer ſide* there be a great inconvenience conſequent, the avoiding of that inconvenience being laid on the oppoſite even part, will outweigh the conſideration of the ſafety. *Quintus Milo* commands his ſervant *Anſidius* whom he had taken for the teaching Grammar and Rhetorick to his children, that he would learn the Trade of a Shoo-maker. *Anſidius* doubts whether his Maſter *Q. Milo* hath power to command him to doe that which was no part of the imployment for which he was entertained, and yet becauſe the thing is of it ſelf lawful and honeſt, he conſiders it is the ſafeſt courſe for him to obey, for certainly in ſo doing he ſins not; and thus farre he is bound, and was in the right. But if to learn that mean Trade will diſhonour and diſable him, make him a fool and contemptible, and ruine his hopes and his intereſts when he leaves the ſervice of *Milo*, the ſervant is not tied to follow that which is more ſafe, but that which is more charitable and prudent; *In dubiis juris tutior pars ſequenda eſt, & obedire teneor, ſi commodè poſſim*, was the rule: becauſe the reaſon abſtractedly conſidered makes the queſtion ſafe on either ſide, as the determination happens; and the avoiding an intolerable inconvenience is as conſiderable as the accidental ſecurity, and in many caſes more complying with *charity*, becauſe in a queſtion in which the *conſcience* is *probable* there is a great ſafety without *taking in* the advantage of a *ſafe matter*, by the *proper efficacy* and *influence* of the reaſon making a *probable* and an *honeſt conſcience*; but then when the ſafety is provided for fairly otherways, and for the moſt part *ſufficiently*, and the *inconvenience* on the other ſide is not provided for; in all ſuch caſes we muſt leave that which is *materially ſure*,

for the choice of that which in its *formality* is *equally sure*, and in its matter more *charitable*. A little child came to my door for alms, of whom I was told he was run from his Mothers house and his own honest imployment; but in his wandring he was almost starv'd: I found that if I releeved him, he would not return to his Mother, if I did not releeve him, he would not be able: I considered that indeed his souls interests were more to be regarded and secured then his body, and his sin rather to be prevented then his sickness, and therefore not to releeve him seem'd at first the greater charity. But when I weighed against these considerations, that his sin is *uncertain*, and *future*, and *arbitrary*, but his need is *certain*, and *present*, and *natural*; that he may choose whether he will sin or no, but cannot in the present case choose whether he will perish or no; that if he be not releeved he dies in his sin, but many things may intervene to reform his vicious inclination; that the natural necessity is extreme, but that he will sin is no way necessary, and hath in it no degrees of unavoidable necessity; and above all, that if he abuses my releef to evil purposes which I intended not, it is *his* fault, *not mine*, but the question being concerding *my duty* not *his*, and that to releeve him is *my duty* and not *his*, and that therefore if I doe not releeve him, the sin is also *mine* and *not his*; and that by bidding of him to doe his duty I acquit my self on one side, but by bidding him to be warm and fed, I cannot be acquitted on the other, I took that side which was at least equally sure and certainly more charitable.

5. This also happens in the matter of *justice* very often. It is the surer side in many cases to restore, and is a testimony of an honest minde, that to secure its eternal interest, will quit the temporal. But if to restore will undoe a man, and the case is indifferent, or at least probable that he is not bound, then it is not necessary to restore, though to restore be the surer side; and if the interest of a third person, as of wife, or children, be also involved in the question, then the inquiring person is bound not to restore. Because in the present case there is a certain uncharitablenes's, and but an uncertain justice, that is, a duty certainly omitted, for the securing of another that is not certain.

6. 4. When the *more probable* is also *the more safe*, there is no question but *the safer is to be chosen*. For so, the conscience is made the more sure both *materially* and *formally*; that is, by the better reason and the more advantageous matter, and he that does otherwise, exposes himself to an evident danger of sinning, having nothing to out ballance either the *direct reason*, or the *accidental safety*.

7. 5. Sometimes it happens that what is safe in one regard, is dangerous in another, and on each side of the probability there is a danger and a safety. *Vittoria Columbina* a *Venetian* Lady was married to five Magnifico's successively; and they all being dead, and she left very rich, young, and tempted to a sixth marriage, advises with her Confessor whether or no she may lawfully doe it? he tels her that it is not onely probable, but certain that she may; but it were better if she kept her Widdowhood, and after so much sense of mortality retire to Religion. But that he may determine her case with more certainty she tels him, she had once resolved with her self to live a Widow, but finds she shall not be free from temptation in that state, and desires him to tell her if she may lawfully marry, notwithstanding that resolution, which now to be something altered, he perceives by her question. * He answers, that it is the sureſt course to determine for chastity and abstinence, her state of Widowhood being more certainly pleasing then the other. But then she hints

hints her temptation, and asks if ſome ſure courſe is not to be taken for her being ſecured in that point too? * This arreſts his thoughts upon a new conſideration, but the reſult is this:

8. 1. When there are two ſecurities to be provided for, one of the thing, and the other of the perſon; that of the perſon is firſt to be provided for. It is the *ſafer part of the queſtion* to determine on the ſide of chaſtity, or virginity, or widdowhood, but this may be the *unſafer ſide to the perſon*, who if he ſuffers temptation is to be provided for by that anſwer which gives him remedy and eaſe.

9. 2. But if it happens that there is danger on either ſide to the perſon, that is the ſurer ſide which provides againſt that temptation which is ſtrongeſt and moſt imminent, and which if it prevails is of the worſt conſequence.

10. 3. This is alſo to be underſtood in thoſe caſes when temporal life is offered in queſtion againſt the danger of a ſin. *Michael Verinus* a yong Gentleman of *Spain*, by reaſon of his living a ſingle life was preſs'd with ſo great inconvenience that he fell into a lingring and dangerous ſickneſs. The Phyſicians adviſe him to uſe his remedy, though he be not married, and being it was in order to his health, which was not elſe to be recovered, they preſumed it lawful, or did not care whether it were or no, but however they adviſe him to it. He doubts of it, and dares not be uncharitable and die for want of remedy, if he might have it, and yet dares not commit an act of uncleanneſs; but finding on either hand a ſin threatning him, and if he flies from a Lion he meets a Bear, or is told that a Bear is in the way: he at laſt flies from the evil beaſt that ſtood before him, and chooſes that way which was evidently the ſafeſt, not to his health, but to his ſalvation; not to his body, but his ſoul, and choſe rather to die, then to doe that which he was certainly perſwaded to be a ſin, and of the other he was not ſo ſure.

Sola Venus potuit lento ſuccurrere morbo,
Nè ſe pollueret, maluit ille mori.

In other things, the prudence of a guide muſt be his onely Rule.

The ſumme is this:

11. 1. *If the doubt be equal and the danger equal*, the doubt muſt be laid aſide, or there can be no action conſequent: and for the danger, if you chooſe one, you may chooſe either, for there is no difference; a dagger or a ſword is all one to him that muſt die by one.

12. 2. *If the doubt be unequal* and *the danger equal*, the reſolution muſt be on that ſide where there is the moſt confidence, that is, where the leſs cauſe of doubting is apprehended; as if I have but enough to give one alms, and I ſee two ready to periſh, and I can releeve but one; the danger is equal, for *paſce fame morientem, ſi non paviſti, occidiſti*, ſaid S. *Ambroſe*, but one is my friend, and the other is a ſtranger; in this caſe the doubt is unequal, and I ought to preferre my friend.

13. 3. *If the danger be unequal, and the doubt equal*, the reſolution muſt be made in compliance with our ſafety. For there is nothing to weigh down *in the doubt*, yet there is ſomething to weigh down *in the danger*, and that is ſufficient.

14. 4. *If the doubt be unequal, and the danger unequal*, there we muſt take the leaſt danger, though on the leaſt ſide of the probability, becauſe there can no

degree of ſin be conſented to; and therefore when by our own fault or infelicity we muſt be forced to fall upon one, we muſt take the leſs, by the ſame reaſon for which we are to refuſe all that we can. *Mævius Caligarius* a Roman Gentleman and newly converted to Chriſtianity, obſerves that his friend *Agricola* was purſued by his enemies unto death, and was by them asked concerning him whether he were in his houſe or no. He knew he was, but knows alſo that if he confeſſes it he ſhall die. He doubts whether it be lawful to lie to ſave his friends life or no, and cannot reſolve whether it be or no, but inclines rather to think it is not lawful. But he conſiders if it be lawful, then he is guilty of his friends death, who refuſed to ſave him at an innocent charge. But if it be not lawful, he does but tell an officious lie, ſo long as the doubt remains, he muſt rather venture upon an uncertain ſin in the officious lie, then the uncertain but greater ſin of *homicide*. Theſe are the caſes in which the danger is on both ſides.

15. 5. *But if there be danger on one ſide onely*, and *a doubt on both ſides*, there is no queſtion but that ſide is to be choſen where there is no danger; unleſs the doubt on one ſide be contemptible and inconſiderable, and the other not ſo.

RULE 6.

It is lawful for the Conſcience to proceed to action againſt a doubt that is meerly ſpeculative.

1. IN *a ſure Conſcience* the *ſpeculative* and the *practical* are the ſame in certain conſequence, as I have already proved in its own place; but in *a doubting Conſcience* the caſe is differing. For though it be *ordinarily* true here alſo that he that doubts ſpeculatively does alſo doubt practically; as if he doubts concerning all uſurarious contracts, whether it be lawful or no to uſe any, he doubts alſo concerning this which himſelf uſes, if it be uſurarious. But becauſe there may intervene a ſpecial caſe, and that which is true in general may be altered in the particular, it may happen that he may be *certain* and *determined* in the *particular* when he is not ſo in the general; that is, when the caſe is ſpecial, by privilege, or exemption, or the ceaſing of the reaſon, or by any other ſpecial caſe he may think himſelf acquitted, when yet the action is culpable in its *whole kinde*.

Chap. 2. Rule 3.

2. But by a ſpeculative doubt ſometimes is meant not the general, but the queſtion abſtracted from circumſtances; and in this it ſometimes happens that though the conſcience doubt concerning the queſtion, yet it does not doubt concerning the practice. *Titius* is poſſeſſed of a field on which he entred by inheritance, and wholly without fraud and violence; but yet upon ſome ſupervening notices he afterwards doubts whether the field be his own by a juſt title; but becauſe he is informed by his Confeſſor and others on whom he does and may rely, that poſſeſſion is a collateral title, and that what he ſo poſſeſſes he may ſtill dwell upon till it be certain that it is not his own; he reſts at quiet in his minde, becauſe poſſeſſion is ſtronger then his doubt, though it cannot prevail againſt demonſtration.

Mary

3. *Mary* of *Rhemes* the wife of a Souldier is told by his Captain that her huſband was kill'd at the battel of *Pavy*; after her year of mourning was expired ſhe marries again to a Citizen of *Rhemes*, and cohabites with him two year; after which ſhe is told that her firſt husband eſcaped to *Tarentum*, and there lives in obſcurity. Upon this ſhe doubts whether the Citizen be really her husband or no; yet living with him he demands her to pay her conjugal duty, ſhe inquires whether during this doubt ſhe may or no; and is anſwered affirmatively upon the ſame grounds: The Citizen is in poſſeſſion of the marriage, and this is not to be diſturbed by *a doubt*, but by *a certainty*, eſpecially ſince the doubt is but a *ſpeculative doubt*, not a *practical*. For it is no good argument to ſay, I doubt whether this man be my husband or no, therefore if I conſent to him I commit adultery; for the *preſumption* lying upon the *poſſeſſor*, though his *title* be dubious, yet his *poſſeſſion* is not, and either of them both are to have a portion in the effect, and therefore the *certain poſſeſſion* in a *dubious title* is to be preferred before *a dubious title without poſſeſſion*, and therefore this kinde of doubt ought not to hinder the effect of the preſent duty. For in this caſe it is not true; The *antecedent* is *doubtful*, therefore ſo is the *conſequent*. For as out of falſhood truth may come, ſo out of *doubts* may come *certainty*. I ſee a great way off *Father Grimaldi* moving his lips; I ſuppoſe he is diſputing, whom yet I was told not to be alive. I argue thus: *He diſputes, therefore he is not dead.* The *conſequent* is certain, but the *antecedent doubtful*; ſo it is in the preſent caſe. I doubt whether this woman be and ought to be my wife, but becauſe ſhe is legally ſo and ſo reputed and in poſſeſſion, I doe inferre that therefore I muſt pay my duty to her, till it be certain that ſhe is not my wife. For though I *doubt* of the perſon *whether or no ſhe be my wife*, yet I am *certain*, or I may be certain of this, that *he that approaches to her who is in poſſeſſion of marriage may doe it lawfully*; *he onely does fornicate who approaches to her of whom I am certain that ſhe is not my wife.* But if of this propoſition alſo I doubt, the doubt is *practical*, and I may not doe it, till by ſome means the doubt be reſolved or laid aſide. But ſo long as it is a queſtion *ſpeculative*, the action may be determinate and lawful, and introduced upon many accounts.

4. For the fuller manifeſtation of which ſecret, becauſe it is of great concernment, and hath influence upon the conſcience in many great actions and entercourſe of humane ſociety, it is remarkable that we cannot argue thus; This man is not *bonæ fidei poſſeſſor*, a poſſeſſor by a juſt faith, therefore he poſſeſſes it *malâ fide*, by an unjuſt: So neither does this follow, This man poſſeſſes it not with an evil faith, therefore he poſſeſſes it with a good faith. It does neither way follow *negatively*. But this conſequence is good; He is a poſſeſſor by a good faith, therefore he does not poſſeſs it by an evil. Or, he is a poſſeſſor by an evil faith, therefore he does not poſſeſs it by a good; it follows either way *affirmatively*. The reaſon of the difference is this; If it be good it cannot be bad, and if it be bad it cannot be good; if it be one, it cannot be the other, but it may happen that it may be neither good nor bad, for there is a *medium* or a third between good and bad faith or honeſty of poſſeſſion; and this conſiſts in a ſpeculative doubt, by which the poſſeſſor doubts whether that which is in his hands be in his right, or belongs to him or to another; and that he who ſo doubts hath neither good nor bad faith is expreſſed by the gloſs in *l.* 1. *C. de acq. poſſ. gl. in l.* 2. *ff. pro ſolut. & gl. in l.* 3. §. *generaliter ff. de acq. poſſ.*

5. The conſequent of which is this, That becauſe that he who ſo doubts is not *bonæ fidei poſſeſſor*, therefore he cannot from thence begin to preſcribe or to ac-

quire a juſt title, becauſe of the rule of the Law, *Quod ab initio non valuit, progreſſu temporis valere non debet*, and it cannot by time get ſtrength to walk which enters into the world without feet; now the doubting conſcience is but a lame ſupporter. But yet becauſe ſuch a conſcience which onely hath this ſpeculative doubt is not *malæ fidei poſſeſſor*, therefore he may lawfully ſtill retain the poſſeſſion till the contrary be evicted.

There is this onely to be added, that although preſcription or other ways of juſt title cannot begin with a doubting conſcience, yet if it entred with a throughly perſwaded conſcience, it may goe on though it be diſquieted by a ſupervening doubt. The reaſon is, becauſe it having lawful Parents of its birth and firſt production, cannot be kill'd and deſtroyed by a ſuit at Law, it began well, and therefore had juſt principles of its progreſſion; and whatſoever hath the firſt advantage of *juſt* and *reaſonable*, is always to be ſo preſum'd till the contrary be proved; a doubt therefore may make the man unquiet, and tie him to inquire, but cannot interrupt the poſſeſſion or the beginning and growing title. Beſides the reaſon, this ſentence is confirm'd by the concurring teſtimonies of *Bartolus*, *Imola*, *Sylveſter*, *Felinus*, *Balbus*, and *Johannes Hannibal*, under their titles *de præſcriptionibus & uſucapionibus*.

6. There are ſome accidental hardneſſes to the conſcience which are innocent, and becauſe beſides the even meaſures of good and evil by *lawful* and *unlawful*, there are ſome paths chalked out to us by *neceſſities*, by *conveniences*, by *preſumptions*, by *ſecurities*, and other indefinite aims at things which can ſometimes weigh down the beſt of our imperfect conjectures in ſome obſure caſes, we may as well walk by the light of the ſtarres, and better too, then to walk quite in the dark; and not onely the Sun is appointed to rule the day, but there are the Moon and the Stars to govern the night: plain and eaſy Rules make a ſure conſcience, but the doubtful and the dark muſt be content with a leſs light.

7. For, unlearned men are oftentimes beſet with the arguments of a talking man, which they cannot anſwer, but create a ſpeculative doubt, and ſuch as deſtroys all the *certainty of evidence* which they had; but if they ſhould not ſtick to their own concluſion in deſpight of all the objections, by a *certainty of adheſion*, they might be diſturbed in every thing, and confident in nothing, and might if they met with a Heretick be fool'd out of their Religion, and quit the moſt material parts of their beleef. And even the learned have in many articles a preſumptive aſſent to their propoſitions; and if they be made to doubt in their underſtanding by the oppoſition of an adverſary, *they are not inſtantly to change their practice, but to inquire further*. For if after every ſuch doubting their practice muſt be inſecure or criminal, they might be forc'd to a lightneſs greater then that of the Egyptian Prieſts: and ſome men can beleeve well, and diſpute ill, but yet their faith muſt not change at the argument of every Sophiſter. In theſe caſes the practice is made ſecure by a *collateral light*, and he is defended from change by *reputation*, and *cuſtome*, by *fear of ſcandal*, and the *tie of Laws*, and by many other indirect inſtruments of determination, which although they *cannot out-wit the crntrary arguments*, yet they ought to *outweigh the doubt*, and guide the will, and rule the conſcience in ſuch caſes.

8. There is *nothing but a weak man may doubt of*, but if he be well, he muſt not change his foot, till it be made certain to him that he is deceived; let him conſider what he pleaſe, and determine at leiſure; let him be ſwift to hear, but ſlow to ſpeak, and ſlower yet in declaring by his action and changed courſe, that

that his doubt hath prevailed upon him. I knew a Scholler once who was a man of a quick apprehenſion, and eaſy to receive an objection, who when he read the Romane Doctors was very much of their opinion, and as much againſt them when he read their adverſaries, but kept himſelf to the Religion of his Country, concerning which at all times he remembred that there were rare arguments and anſwers reſpectively, though he could not then think upon them. * There are temptations of faith and opinion, and they are to be reſiſted ſometimes by indirect ways of proceeding, and artifices of the ſpirit; and ſometimes men in ſickneſs are afflicted with doubting and trembling conſciences, but yet are ſupported onely with general remembrances, they conſider that there are comforts, and excellent promiſes, and inſtruments of hope, and wiſe and holy ſayings by which they were nurſed up to that height of ſtrength, that they are now able to fight in the dark: If the ſpeculative doubting conſcience ſhould always prevail in practice, the ignorant might be abuſed and miſerable *in all things*, and the learned *in moſt*.

RULE 7.

Every dictate and judgement of the Conſcience, though it be little and leſs material, is ſufficient and may be made uſe of for the depoſition of a doubt.

1. EVery little reaſon is not ſufficient to guide the will, or to make an honeſt or a probable Conſcience, as I have proved in the foregoing Chapter*; but in a doubting conſcience, that is, where there are ſeemingly great reaſons of either ſide, and the conſcience not able to determine between them, but hangs like a needle between two load-ſtones, and can goe to neither, becauſe it equally inclines to both; there it is, that any little dictate that can come on one ſide and turn the ſcale is to be admitted to *counſel* and to *action*; for a *doubt* is a diſeaſe in *conſcience*, like an *irreſolution* in *action*, and is therefore to be removed at any juſt rate, and any excuſe taken rather then have it permitted. For even to waſh in *Jordan* may cure *a leproſy*, and a glaſs of wine may eaſe the infirmities of the ſtomack and he is too ceremonious in the matter of life and death, that ſtands upon puntilio's with nature, and will not be cured but by rich medicines. For in *a doubting conſcience* the immediate cure is not *to chooſe right*, that is the remedy in an *erring conſcience*; but when the diſeaſe or evil, is *doubting*, or *ſuſpenſion*, the remedy is *determination*; and to effect this, whatſoever is ſufficient may be choſen and uſed.

* Rule 7.

2. Every conſcience that proceeds *probably*, proceeds *honeſtly*, unleſs by a greater *probability* it be engaged againſt the leſs; now to make a conſcience that is *probable*, yet even more probable, a little advantage is ſufficient; which is to be underſtood with theſe cautions:

3. 1. When the *doubt is equal* and the *danger alike* on either ſide, then a ſmaller ſuperfætation of argument will doe the work, that is, *cure the doubting*; for though a little argument is not alone a ground for the action of a wiſe man, yet a little overplus of reaſon will take off this calamity of *irreſolution* and *trepidation*;

pidation; it is not enough to out weigh any danger, but it can with the portion of the equal meaſures which ſtand on its own ſide, by its little weight caſt the ballance.

4. 2. This is not ſo eaſily to be admitted when the judgement of the man is diſcernably and perceivably little and not to be truſted, for then the ſuperaddition that is made by him to any part of the doubt may be as wholly inconſiderable as the doubt it ſelf is troubleſome; and though this may make the doubt to be laid aſide, as it will alſo determine ſuch a man in the whole traverſe of the queſtion, yet it is the worſt remedy of the *doubt*, and an inſufficient introduction of the *probability*. In this caſe the doubt is to be laid aſide by the advice and authority of ſome perſon fit to lead him, rather then by the confidence of his own little ſuperadded impertinency. For indeed it is not good to have the ſacredneſs of a conſcience governed by weakneſs and contingency.

5. 3. When the doubting perſon is inconſtant, let him not ſpeedily act what he lightly determines by the ſudden intervening humor; for *he that changes quickly, judges lightly, but fancies ſtrongly, and acts paſſionately, and repents ſpeedily and often*; therefore let ſuch a man when he perceives his own infirmity ſtop at the gates of action, leſt the laying down one doubt, multiply many, and he become more miſerable in his *remedy* then in his *ſickneſs*.

6. In purſuance of this Rule it is to be taken care of that *fear* be not miſtaken for *doubt*; for there is oftentimes a doubt no where but in the Will, and the more ſlender and weak the judgement is, oftentimes the fear is greater; and ſometimes they fear becauſe they fear, and not becauſe they have reaſon; when therefore the doubt does not rely upon ſuch a reaſon as can be formed into an argument and diſcourſe, but is an *unreaſonable trouble*, and *an infinite nothing*; the *doubt* ought directly to be laid aſide, for it is *no way conſiderable*, but onely that it *is a conſiderable trouble*.

Rule 8.

When two precepts contrary to each other meet together about the ſame queſtion, that is to be preferred which binds moſt.

1. THIS Rule we learn from the eighth Councel of *Toledo*, *Ubi periculi neceſſitas compulerit, id debemus reſolvere quod minori nexu noſcitur obligari. Quid autem ex his levius, quidve ſit gravius, pietatis acumine inveſtigemus.* The Councel inſtances in the keeping wicked oaths and promiſes, where though the inſtance be miſtaken, and that in the matter of wicked promiſes the caſe is not perplexed, and it is no ſin to break them, but a ſin to keep them; yet upon ſuppoſition that the conſcience is doubtful whether it be lawful to break them, and whether it be lawful to keep them, and fears a ſin on either ſide, the Councel hath given a right anſwer, the evil that is leaſt is to be choſen. *Etenim dum perjurare compellimur, creatorem quidem offendimus, ſed nos tantummodo maculamus. Cùm verò noxia promiſſa complemus, & Dei juſſa ſuperbè contemnimus, & proximis impiâ crudelitate nocemus, & nos ipſos crudeliori gladio trucidamus.* He " that having ſworn to doe an evil turn breaks his oath, offends God by put-

Concil. Toler. 8 Can. 2. temp. Martini P.

ting

« ting his name to a lie and a villany, and he pollutes his own ſoul: But he « that keeps his oath when he hath ſo ſworn, deſpiſes the Commandements of « God, and hurts his neighbour with an impious cruelty, and deſtroys him- « ſelf with a worſe.] On this ſide therefore there being the more and worſe evils then on the other, we muſt decline furtheſt from this. For if all evil is to be avoided, then all degrees of evil are; and when we cannot avoid as much as we ſhould, we muſt avoid as much as we can. We muſt chooſe none directly, but when we are forced upon ſome by our own infelicity or fault, it is the beſt remedy for the Gangrene that we loſe our arm or legge, and he that is in the fatal neceſſity, no otherwiſe can be permitted to chooſe a ſin, then he is ſuppoſed to be deſirous to be cut of the ſtone, when upon any terms he reſolves he never will or can endure the torments of the diſeaſe. The great reaſon of this rule is that which was given by *Ariſtotle*, ἐν ἀγαθῷ γὰρ λόγῳ γίνεται τὸ ἔλαττον κακὸν πρὸς τὸ μεῖζον κακόν ἔστι γὰρ τὸ ἔλαττον κακὸν μᾶλλον αἱρετὸν τοῦ μείζονος. τὸ δ' αἱρετὸν, ἀγαθὸν, καὶ τὸ μᾶλλον μεῖζον, the leſs evil in reſpect of the greater evil is to be accounted good; becauſe the leſs evil is rather to he choſen then the greater; and what is in any ſenſe eligible is in ſome ſenſe good, and that which is more eligible is a greater good. Lib. 5. cap. 7. Ethic.

2. But it ſeems ſomething harder to inquire concerning this caſe when it relates to others: for ſo it uſes to be asked;

Queſt.

WHether it be lawful to adviſe, to counſel, to petition, to determine, to make uſe of the doubt of another, or his neceſſity, or perplexity, and to call upon him to doe that which is a ſin? The caſe is this; *Pollio* an intemperate and wanton young man falls into adulteries and unnatural luſts; his friend *Publius Aſinius* adviſes him, *not ſo*, but if he will not leave his vileneſs, better it is to ſatisfy his luſt by ſingle fornication, and the leſs harmful complications:

Et quas Euphrates, & quas mihi mittit Orontes
Me capiant, nolo furta pudica thori.

whether or no *Publius* does well or no in giving this advice, is the queſtion? The reaſons of doubting are theſe: * Becauſe he that adviſes evil is guilty of the ſin which he procures; and he that any way conſents or induces another to ſin, ſhall be partner in the puniſhment.

3. To this I anſwer, That in the whole entercourſe there are to be conſidered the *formal ſin*, the *material part* of the action, and the *degrees of the obliquity*. The *formal* part, or the *ſinfulneſs* cannot, muſt not be countenanced, or aſſiſted at all, *directly* or *indirectly*; and in the preſent caſe it is ſo farre from being countenanced, that it is reduced to as little a proportion as it can, as near to a deſtruction as the preſent neceſſity or perplexity will permit, and it is out of hatred to the obliquity or ſinfulneſs that this leſſer way is propounded. *Pilate* ſeeing the Jews reſolved to doe a ſpight to the holy and moſt innocent Jeſus, propounded to them a leſſer way then murdering him; *I will ſcourge him, and let him goe*. *Pilates* conſcience was not perplexed, though his intereſt was, and therefore there was no neceſſity for him to doe either, and neither ought he to have *propounded* the leſſer evil, which it may be themſelves did not deſign: indeed if they were reſolved to doe one, he might have perſwaded the leſs, *not abſolutely* (for nothing could have made that lawful) but *comparatively*, that is, rather that then the other, if ye will doe one.

2. But

4. 2. But for the material part of the action, if it be already prepared, and the malice known and declared, it is lawful to propound a leſs inſtance of the ſin without perſwading to it; which is to be underſtood with theſe cautions:

1. That it be onely with a purpoſe of hindring a greater.

2. When the leſſer cannot be hindred, but at leaſt ſo much muſt be done by way of redemption. As if *Caius* reſolves to raviſh a Matron to ſatisfy his luſt, it is lawful to divert his luſt upon a common proſtitute, who ſells her ſoul for bread; becauſe her malice is always ready and watches for an opportunity, and ſins no leſs if ſhe wants opportunity which ſhe thirſts after.

3. That it be ever without the prejudice of a third perſon: As if one of the *Banditi* intends to kill one man, and this happens to be offered to a publick and a brave man, it is not lawful to point out his ſword to the ſtriking of a meaner perſon to ſave the other, becauſe though in reſpect of the effect it be a leſs evil, yet it is a direct uncharitableneſs to a third, which can receive no warrant or legitimation by the intention of the propounder; for although he intends that a leſs evil be done for the publick, yet he intends a greater evil to the particular.

4. That it be in a caſe certainly known where the malice is apparent and declared, and the matter prepared: for thus we ſee that God who ſees the hearts of men, diverts their prepared malice upon ſome ſpecial matter which ſerves the ends of his providence, and verifies the prophecies of God, and ſo brings his deſigns to effect, and a certain event by contingent or voluntary inſtruments. But we may no further imitate this, then we can attain to little portions of the knowledge of mens private and particular purpoſes.

5. 3. But as for the degrees of the obliquity or irregularity, it is certain, none is to be *perſwaded* or *aſſiſted directly*, but *ſuffered in the whole*, and *perſwaded* in the inſtance by way of remedy againſt the greater and more intolerable. Thus *Moſes* permitted divorces, that the Jews might not commit open and frequent adulteries, or kill their wives when they grew weary of them. Thus an inconvenience is ſuffered rather then a miſchief ſhall be introduced: and ſome fooleries and weak uſages are ſuffered in ſome Churches, rather then by reforming them, make the ignorant people think all Religion is indifferent: and if all the people of the Greek Church did perceive that any of their old cuſtomes were fit to be reſcinded, they would upon the ſame eaſineſs quit their whole Religion and turn Turks. And though an error is not to be permitted in any Church when it can be peaceably amended, and when it cannot it is, as often as it can be, peaceably to be diſcouraged; yet when the neceſſity is great, and the evil *feared* is *certain*, and *felt* and is *intolerable*; it is a ſad neceſſity, but no man can help it, and therefore it muſt be as it may, the leſſer error is to be endured till it can be remedied, with a remedy that is not worſe then the diſeaſe.

Queſt.

6. UPon this occaſion, and for the reducing the Rule to practice, and to regulate a caſe which now adays happens too frequently; it is not amiſs to inquire concerning the neceſſities of women married to adulterous and moroſe vile-natur'd husbands; Whether it be lawful for a wife out of a deſire to live with ſome degree of a tolerable comfort, to connive at her husbands ſtollen pleaſures, and to permit him quietly to enjoy his folly? and what is a womans duty, and what were her moſt prudent courſe, and manner of deportment?

Some

7. Some of great reputation in the Chureh of God both of old and later times put a ſpeedy period to this inquiry, and abſolutely condemne it as unlawful for a man or woman to live with their husband or wife reſpectively, if either of them be notoriouſly guilty of adultery. Of this opinion was S. *Hierom*, In 19 Matth. ſaying *that a man is ſub maledictione ſi adulteram retineat*, he is under a curſe if he retains an adultereſs in his embraces. And S. *Chryſoſtom*; *Sicut crudelis & iniquus eſt qui caſtam dimittit, ſic fatuus & iniquus qui retinet meretricem. Patronus enim turpitudinis eſt qui celat crimen Uxoris.* As he is cruel and unjuſt who puts a chaſt wife from him, ſo he is unjuſt and a fool that keeps a harlot. For he is a Patron of his wives turpitude. who conceals his wives adultery. And this they prove out of *Solomon*; *Qui tenet adulteram ſtultus eſt*; almoſt the Prov. 18. 22. words which S. *Chryſoſtom* uſes. He is a fool that keeps an adultereſs: ἀσεβὴς it is in the Greek LXX. *He is an ungodly man.* And of the ſame opinion was *Bucer* in the laſt age, who for his opinion brings two arguments which are not contemptible. The firſt is taken from *Deuter.* 24.4. where God enjoyns that if a man puts away his wife, he muſt at no hand receive her again, *quia ipſa polluta eſt*, ſhe is defiled, meaning if any man elſe hath lien with her: and if this be a good reaſon, it will conclude ſtronger, that if ſhe have committed adultery, ſhe may not be entertained becauſe in that caſe ſhe is much more polluted, and where the reaſon of the Commandement does intervene, there alſo the obligation does goe along. But the other is yet more conſiderable; For if God commanded that the adultereſs ſhould be ſtoned to death, certainly he much rather intended ſhe ſhould be turn'd out of doors. * To which I adde this conſideration; That ſince an adulterer is made one fleſh with the Harlot with whom he mingles impure embraces, it follows that he hath diſſolved the union which he had with his wife, or ſhe with her husband; for he cannot be one with his wife, and one with the Harlot, and yet he be one in himſelf and they two, for that is a perfect contradiction; for that which is one with two, is not one but two. Now for a woman to lie with a man, or a man with a woman, between whom there is not a juſt and legitimate union, ſeems to be an unjuſt and illegitimate uniting, and therefore it cannot be lawful to lie with an adulterer who is one with an Harlot.

8. Before I come to the reſolution of the Queſtion, I muſt deſcribe how much theſe arguments doe prove and inferre; becauſe though they doe not prove ſo much as their Contrivers doe intend, yet they doe ſomething towards the whole Queſtion. 1. The words of S. *Hierome* inferre nothing but this, That to live with a Harlot is a great calamity and a horrible curſe, and it cannot indeed tend towards a bleſſing, or end well, or be at all endured, if it be not intended to purpoſes beyond the proper effect of that calamity. He that is ſmitten with a leproſy, or he that is hanged upon a tree is accurſed; but if the leproſy makes a man run to God or to Chriſt, or the man that dies upon a tree does confeſs and glorify God, and by his death intends to doe ſo, the Leper ſhall be preſented pure before the throne of Grace, and he that hangs upon the tree does die with Chriſt, and ſhall reign with him for ever. 2. And the deſign expreſſed in the words of S. *Chryſoſtome* doe verify this commentary upon the words of S. *Hierome*. For S. *Chryſoſtome* charging not onely infelicity (as the other does) but folly and cruelty upon him who retains a Harlot; gives this reaſon, becauſe he is a Patron of his wives turpitude if he conceals it; meaning it, if he conceals it out of careleſneſs and poſitive neglect, or which is worſe, out of intereſt, or baſe deſigns: All wiſe and good men in the world condemn the fact of *Cato*, who did lend his wife *Martia*, a virtuous and a chaſt Matron

to

to his friend *Hortenſius*: He that conceals his wives crime with an unwillingneſs to reform it, or a pleaſure in the ſin, or the fruits of it, is his wives betrayer and murderer; nay, he is an adulterer to his own wife. But theſe words cannot be true in all caſes, for he that conceals her ſhame, leſt the diſcovery ſhould make her impudent and harden her face, he is no patron of the ſin, but a careful guardian watching leſt ſhe ſhould commit a worſe. And this alſo is the meaning of the words of *Solomon*; for although they are not at all in our Bibles, becauſe they are not found in the Hebrew text, yet the words which are found in the Greek LXX. and in the Vulgar Latin, and which were certainly in the Bibles which S. *Hierome* and S. *Chryſoſtome* did uſe, and which were the cauſe and original of their opinion, have in them this ſenſe; That as he who expels a good woman thruſts good from his houſe, ſo he that does not thruſt an evil woman thence, an adultereſs, he is a fool; meaning if he connives at her wickedneſs, or unleſs he have ſomthing to ſweeten the ſufferance, or ſome pious purpoſes to ſanctify his action. But if it were abſolutely unlawful, then the adultereſs were a perſon of a deſperate fortune, irremediable and irrecoverable, uncapable of mercy, or repentance; or if ſhe were, yet her husbands charity and forgiveneſs might by no means be inſtrumental to it; and yet S. *Paul* in a caſe that was extremely bad, even in the caſe of infidelity, *Quî ſcis mulier an virum ſis lucratura?* What knoweſt thou O woman whether thou mayeſt gain thy husband? * But the arguments of *Bucer* being intended directly againſt the lawfulneſs of retaining an adultereſs, or living with an adulterous husband, are to have diſtinct anſwers. For although where a commandement is given with a reaſon, where ever the ſame reaſon is, it does not always follow that there is the ſame obligation, becauſe although God is ſometimes pleaſed to give a reaſon for the precept, yet the reaſon did not binde without the precept, but the precept does binde without a reaſon, which demonſtrates that the obligation proceeds wholly from the authority of God, and not from the reaſon (as I intend to ſhew more largely in its proper place) yet beſides this I ſay, the reaſon is not rightly rendred in the uſual Tranſlations: *Non poterit prior maritus recipere, quia polluta eſt*; The firſt husband may not receive her, becauſe ſhe is defiled: for the words in the Hebrew are אשר הטמאה which doe not ſignify [becauſe ſhe is polluted, but *quia facta eſt polluere ſe*, becauſe ſhe is made to defile her ſelf;] meaning that becauſe her firſt husband had thruſt her out and offered her to be humbled by him that would, he being the cauſe of that pollution hath loſt all right to her, and the privilege of reſtitution: and then this caſe refers not to a ſimple adultery, but to him who betrays or expoſes his wife to adultery; & indeed ſuch a perſon might not in *Moſes* Law receive her again: and this was the caſe of *Cato* and *Socrates* who were very free in lending their wives, as a man lends an utenſil. As for the caſe of lapidation, it is true, the woman if ſhe were legally convicted was to die; but the husband was not bound to accuſe her, he might pardon her if he pleaſed, and conceal the fact; he might pardon her for his ſhare as Chriſt did the woman taken in adultery; or put her away privately as *Joſeph* upon a miſtake intended to doe to the bleſſed Virgin Mother: but that it is therefore unlawful to retain her whom his ſoul loves, whom he would fain convert, whom he deſires and hopes to reform, or that God did intend the good man ſhould not uſe any of his charity and kindneſs to any ſuch purpoſe is not at all to be concluded by theſe arguments. Now as to the laſt, the adulterous man is one with the Harlot, but this union is not a natural union, but a ſpiritual and legal, as appears by the effect of ſecond and third marriages; for one perſon can no more be one naturally with two or three ſucceſſively, then he can be one with

many

many at one time; and when the Patriarchs were married to divers women at once, they were not naturally one with them all, but legally they were; that is, they were conjoyned in holy bands, and were to very many purpoſes to be reckoned but as one. Εν γάρ εἰσιν ἀνὴρ καὶ γυνὴ τῇ φύσει, τῇ συμπνοίᾳ, τῇ ἑνώσει, τῇ ἀγαθέσει, τῷ βίῳ, τῷ προσώπῳ, κεχωρισμένοι δέ εἰσι τῷ σχήματι καὶ τῷ ἀριθμῷ, ſaid *Clemens*. They were one perſon by union of affection, they had one bed, one purſe, one intereſt, community of children, communication of bodies, equal rights, as to the power of marriage, the ſame band of duty, tied by the ſame myſtery. Now he or ſhe that commits adultery breaks this union, and divides or imparts ſome of the rights due to each other to an impure perſon, and they become one fleſh in an impure mixture. Now becauſe he or ſhe that firſt breaks this union loſes their own right by invading or giving away anothers, therefore the offending perſon may be put away and refuſed in their petition of right, which they have loſt by doing wrong. But the adultery hath not ſo united the offending perſons, but that the union can, and may better be broke, and the erring party reduced to his rule and to his right. For it is but a legal, and it is a ſpititual or intellectual union, which is to be done not by material but by moral inſtruments which can eternally return, and be effective when they doe. The way then being thus farre made ſtraight, I anſwer;

9. That it is not onely lawful, but may have in it great piety and great charity for a woman ſtill to cohabite with an adulterous husband. The lawfulneſs appears, in that there is no prohibition by a Divine Commandement, no natural uncleanneſs in it; and this appears as all other negative pretences can, even by evacuating the pretences made to the contrary. Of this opinion was S. *Baſil*, who alſo made a Canon for it, and commanded it to be done in his Church, as appears in his Epiſtle to *Amphilochius* 1. *Can.* 9. & 21. The ſame alſo was the ſentence of S. *Auſtin* to *Pollentius*, and in his Book *de adulterinis conjugiis*: and of P. *Pelagius* in his Epiſtle to *Melleus* his Subdeacon. But they it ſeems went againſt the general ſtream, for they were not onely forc'd to diſpute it, but alſo to limit the queſtion and the permiſſion. For *David* received his wife *Michol* who had liv'd with another man; and S. *Paul* adviſes the wife to be reconciled to her husband; and Chriſt forgave the woman taken in adultery, and God not onely is ready to forgive, but calls and invites his Church to return to his love though ſhe hath been an adultereſs, and committed fornication againſt him: but therefore ſo may a man, but it ought onely to be done in caſe the ſinning perſon does repent: onely S. *Baſil* is for the living ſtill with the adulterer though he wallow in his ſin; but does not think it fit the man ſhould be tied to doe ſo to his adulterous wife. That he or ſhe reſpectively may if they will ſtill live with the ſinning perſon, needs no other proof but this, that the innocent being alſo the injured perſon may forgive the injury done to them; and that it may have in it great piety and great charity is certain upon the ſame account on which it can be piety and charity to ſuffer injuries, to be patient, to have a long-ſuffering ſpirit, to exhort, to intreat, to bring the ſinner to repentance, to convert a ſoul, to ſave a ſinner from the evil of his way. But this is to be practiced with the following meaſures and cautions:

Lib. 3.

10. 1. The innocent perſon muſt not be bound to doe this, becauſe the union being diſſolved, the criminal hath loſt his right, and therefore if the other uſe their liberty, they doe no wrong; and although it may be good charity in many inſtances to doe it, yet becauſe there is no direct obligation in any, and there may be great uncharitableneſs to ones ſelf as the caſe may happen, no ones li-

berty is to be prejudiced in this particular, but they are to be exhorted to all inſtances of charity; ever remembring that ſaying of God by the Prophet,
Malach 2.16. *The Lord God of Iſrael ſaith, he hateth putting away.*

11. 2. The innocent perſon may lawfully retain the criminal, though he or ſhe have no other end or purpoſe in it, but the love of the perſon, or the retaining of their own rights temporal, or any other thing that is in it ſelf honeſt and lawful: and the reaſon is, becauſe the fault of the one is not to prejudice the other; and it is miſery enough to be injured in their direct relation, and not that this injury compel them to receive another. If *Titius* be an adulterer, his wife *Caia* hath not loſt her power over his body, or her intereſt in his family or fortune.

12. 3. This is to laſt as long as there is any hopes of repentance, and the repentance is to be procured and endevoured by all direct means, and by all the indirect means which are miniſtred to the innocent perſon by the power and advantages which his or her innocence gives over the guiltineſs of the other: Such as are, reproving his fault, denying conjugal rights, delating the perſon, bringing him or her to private ſhame, procuring reproof from ſpiritual ſuperiors, or natural relatives, and indeed any thing that can be prudent, and by which the offender can be made better, and will not be made worſe.

13. 4. If there be no hopes of repentance, yet ſtill the innocent perſon may uſe their own right, not onely becauſe there may be poſſibilities and real conſequent events when we have no hopes; and S. *Pauls* queſtion, *Quî ſcis ô mulier? how knoweſt thou O woman whether thou ſhalt gain thy husband?* may ſtill have place, not onely I ſay for this reaſon, but for the foregoing; the innocent perſon does not loſe his or her right, and therefore may ſtill poſſeſs what otherwiſe ſhe might quit; and his incontinence does not oblige her to be expoſed to the danger of a πύρωσις or uſtulation, nor to be reproached with the noiſes of divorce, nor offered to an actual poverty, or dereliction, or to become an actual widow before death.

14. 5. If the retaining the adultereſs be actually ſcandalous, the Church in that caſe hath been more reſtrained in her permiſſion, and hath commanded the innocent perſon to put the offending woman away: and therefore the Fa-
C. 05. thers in the Councel of *Eliberis* refuſed to give the Communion to a Clergy man even at the laſt, if he did not *ſtatim projicere* inſtantly expel from his houſe his wife whom he knew to commit adultery: And in the Councel of *Neo-Cæ-*
C. 8. *ſarea* he was to be depoſed from his dignity in the ſame caſe; the reaſon is given by the Councel of *Eliberis*, *Nè ab his, quì exemplum bonæ converſationis eſſe debent, videantur magiſteria ſcelerum procedere*; leſt their houſes which ought to be the examples of piety and chaſtity, become the precedents and warranty of uncleanneſs. This is nothing elſe but a purſuance of the Canon Apoſtoli-
1 Tim. 3. 4, 5. cal, requiring that Biſhops and Deacons ſhould be ſuch who rule their own houſes well; for if they cannot doe that, it is not eaſy to be ſuppoſed they can well rule the Church of God: and though a good man may have an evil wife, and ſuch a one whom no prudence can govern; yet if ſhe be an adultereſs, he can put her away, though he cannot govern her: and indeed all ſuch reproaches ought to be infinitely removed from the houſes of thoſe, whoſe lives and whoſe Governments ought to be exemplar. *Oportet ſuſpicionem abeſſe à Cæſaris domo.* Princes and Prelates ought not to have any thing under their roof ſo nearly relating to them, that can juſtly be ſuſpected. But this is mat-

ter

ter of decency and fittingneſs, not of indiſpenſable neceſſity.

15. 6. The innocent perſon muſt not directly by any compliance, cohabitation, or indulgence give countenance or incouragement to the impurity or crimes of the offending relative, for nothing can make it tolerable or lawful to promote a ſin, or any ways directly to cooperate toward it. This is a *ſpecies lenocinii*, a being a bawd to the uncleanneſs of that perſon whom with our lives we ought to reſcue from that damnation if we could. And therefore if the woman finds her husband grow worſe by her toleration and ſufferance, ſhe is to goe off from it by ſuch degrees as are on this ſide the extreme remedy, which I reckoned before in the third caution; and if nothing elſe hinder, it is not onely excuſable, but hugely charitable, and in a very great degree commendable to be divorc'd. For ſhe uſes her own power, and therefore ſins not, and does it when nothing elſe can prevail, and therefore ſhe is not raſh, or light and inquiſitive after new relations, and ſhe does it that ſhe may not patronize or increaſe his ſin, and therefore is charitable to his better intereſt.

16. 7. But if his or her compliance and cohabitation does accidentally make the offending party worſe, yet if it be beſides the intention, and againſt the purpoſe, and contrary to the endevours of the innocent; he or ſhe in that caſe is not tied to relinquiſh their right and their advantages in the preſent poſſeſſion or cohabitation. 1. Becauſe concerning accidental events, againſt which we labour, no man is to give account. 2. Becauſe of this accidental event, the offending perſon is the onely author, and the innocent is not to ſuffer for his ſin. 3. If the innocent perſon were tied to depart, then it were at any time in the power of the adulterer or adultereſs to be divorced from the innocent, becauſe he growing worſe by the others being good can oblige the other to quit him of the burden which he hates. 4. Becauſe to depart in that caſe is no remedy. Becauſe he that is vile, may grow worſe by contrary cauſes; and as wicked men are made preſumptuous by mercies, and hardned by judgements, and whether they be puniſhed or not puniſhed, from both they take occaſion to perſevere, ſo may an adulterer, or an adultereſs, by being ſweetly uſed, or by being harſhly. All that can be of duty and neceſſity in this caſe, is that the innocent perſon with all prudent advice and caution doe not by any direct act incourage the crime, or connive at it when it can be help'd, or commend it when it cannot, or refuſe to uſe any fair or any juſt inſtrument of curing the leper; and for the reſt, let them pray earneſtly, frequently, humbly, and leave the event to God. It is lawful to permit or ſuffer an evil whith I cannot help, and by that permiſſion retain my own rights, or prevent my own wrongs; but it is at no hand lawful for any intereſt ſpiritual or temporal to doe an evil, or to ſet it directly forward.

17. Thus ſome Common-wealths permit fornication and publick ſtews, to prevent the horrid conſequents of the luſts of their young men, which when they cannot cure, they ſeek to leſſen and divert; and though there be in *the whole*, many evil appendages, and a great fault in Government, and many evil and avoidable neceſſities introduced or ſuppoſed; yet ſo farre as this intention is conſidered, if it were not avoidable or remediable by the ſeverity of Laws, and the wiſdome of diſcourſes, and the excellencies of Religion, it were the onely charity that were left, and an *after game of Conſcience* and *Religion*; ſad and fatal to thoſe whoſe folly inferres it, but all that is left that can be done for God and for ſouls.

But yet this thing in all the circumstances is not to be done at all, because it is a snare to many who have no such necessities, who are otherwise curable, who enter into the temptation, because it is made ready to their hand; and it is a high scandal to the Laws and to the Religion of a Country, where such vile nests of impurity are suffered; and the necessity is but phantastick, accidental, and inferr'd by evil customes, or some secular interest, or weaker regard; for there is no necessity that men must either debauch Matrons or be fornicators; let them marry, for that is the remedy which God hath appointed, and he knows best how to satisfy and provide for all the needs of mankinde. But it is objected The Laws of *Italy* forbid the younger brothers of great families to marry. * That is it, which I said, men make necessities of their own, and then finde ways to satisfy them which therefore cannot be warranted by that necessity, because that necessity is of their own procuring, not from God, nor for him. For this is the case; An evil is to be cured, and a greater prevented; God hath appointed marriage for a remedy, the civil power forbids it to some persons, who for want of that must fornicate, or doe worse. To prevent the worse they provide them of opportunities of doing the less? But what remedy is there for the less? That is not thought of; for marriage is inconvenient to younger families; but it is very convenient for their souls, and they also would be provided for, as being no contemptible interest. Here therefore, if they would alter the necessities which worldly interest introduced, if they would preferre souls before the greatness of families, heaven before a Marquisate in *Sardinia*, and would esteem it more honour to a house to have chastity preserv'd rather then wealth and an intire inheritance, the weak pretences of excuse for Stews would be hissed off from the face of all Christian Countries; for if fornication be a remedy against unnatural lusts, it is just as being poysoned is an antidote against hanging, but certainly there is a better: Innocence or pardon will prevent it with more advantage, and so will marriage doe to the worse evils of lust; unless no health is considerable which is not effected by a Witch, and ease is to be despised if it be brought with a blessing. * But if any one can pretend that marriage will not secure the *Italians* or hot *Spaniards* from attempting intolerable vilenesses (besides that fornication will doe less, as having in it no more of natural remedy, and not so much by way of blessing) in this case, the wheel or the gallies, hard labour and the mines, the rods and axes must pare off the luxury.

* This therefore is the result, as to this particular instance. In the questions of greater or less uncleannesses, permissions are not to be made by publick authority, for the reasons before named: but there may be particular necessities in single instances which will run into present evil, for which no remedy can be provided; and then it is lawful to divert the malice upon a less matter, when it cannot be taken off intirely: For thus righteous * *Lot* offered his daughters to the impure Sodomites, to redeem the strangers from the violation intended them, and to hinder his Citizens from breaking the laws of Nature and Hospitality, which (if they were not always) yet they were of greater obligation then the restraints of simple fornication. And to this purpose is that of S. *Chrysostome* who to a man that is accustomed to swear, and cannot avoid it, advises that he should rather swear *by his head* then *by God*. I doe not, I confess, like the instance, both because it is in some cases worse to swear by a Creature then by the Creator; it is an honour done to him to swear by him, though to doe it triflingly is such an honour done to him, as superstition is, an honour that angers him; and 2. also because, he that can pretend his swearing to be unavoidable, does say so, because he does swear when he cannot deliberate; &

* S. Ambros. lib. 1. c. 6. de Patriarch. Abraham.

Hom. 27. ad pop. Antiochen.

if

if he does not conſider, he can never make uſe of his advice to doe one rather then another; for no man can chooſe that cannot conſider, but as for the prime intention of the advice, that the leaſt evil is to be choſen, or adviſed, it is without queſtion ſafe and prudent.

* Of the ſame purpoſe are theſe words of S. *Auſtin*, *Si decreviſti homicidium aut adulterium facere, adulterium committe non homicidium.* If thou wilt murder or commit adultery, doe this, not that; that is, rather this then that. But neither here am I pleaſed with the inſtance, becauſe, when any man can lawfully be diverted to a leſs ſin, it muſt be *in the ſame kinde*; becauſe the ſame luſt cannot be filled with a differing object; and if the temptation be ſuch that it can be taken off wholly from that Scene, and chang'd to a differing and diſparate matter, he can as well be turn'd to ſomething that is innocent as to ſome other diſtinct vice; that is, he may for all his temptation. From unnatural luſts to natural, from the greater kinde to the leſs, from adultery to fornication, from fornication to trifling amours, and Platonick fooleries; from murder to a blow, from a blow to an angry word; theſe are proper diminutions which are in a direct order to the retrenching of the ſin: but from murder to adultery a man is not to be diverted, becauſe this is not a direct leſſening of the degrees of ſin, but a changing it into equal; or if it be not, yet the malice is more *extended*, if not *intended*, and the man is directly tempted to be a Devil upon a new ſcore, for it muſt be a new malice that muſt change him; but ſtill, the advice is in its main deſign ſafe and innocent. L. 1 c. 15. de adulterin. conjug.

* But of the ſame minde is S. *Gregory* affirming it to be good advice that when of two ſins one muſt be choſen, that the leaſt be it, but his proof of it is not to be ſuffered; for ſo (ſaith he) for the avoiding fornication S. *Paul* permits marriage; which ſaying of his without great violence to the words and charity to the man can never be reconciled with the truth of Scriptures, or the honour of marriage, but as for the main advice it is well and agreeable to right reaſon. Lib. 32. moral. c. 18.

19. But beſides the cautions already given num. 4. relating to the material part of ſin, the whole affair is to be conducted with theſe proviſions:

20. 1. No man may uſe this courſe, by ingaging in a preſent leſſer evil, to ſeek to prevent a greater that is to come: the reaſon is, becauſe this is a ſecuring of evil, it is an aſſurance and a certain gain to the intereſt of ſin, and this certainly may outweigh the greater degree of an uncertain evil; and there are many acts of providence which may intervene and prevent the future evil, which therefore is not to be prevented by a preſent evil though leſs miſchievous, becauſe poſſibly it may be hindred at a cheaper rate; and no little evil is to be done, but when either it ſelf or a greater is unavoidable, which happens not (for ought we know) in the preſent caſe; for before to morrow the man may die, or his affections to ſin may die, or he may be ſick, or ſcar'd, and to put it off as long as we can, is one kinde of diminution and leſſening of the ſin, which is the thing here conſulted of.

21. 2. Care muſt be taken, that by this means no mans ſin be promoted, no mans eternal intereſt be leſſened, no evil be done that we could and ought to forbid and hinder; and that of this we have a moral certainty, or at leaſt no probable cauſe to doubt: The reaſon is, becauſe if we put any mans ſoul to hazard, by procuring a leſs damnation to an evil perſon, the evil we

doe is greater then our good; and we venture one miſchief, for the venture or hopes of leſſening another. *Quintus Milvius* being in love with the wife of *Muræna*, and ſhe with him, *Milvius* reſolves to kill his wife *Virginia*, and run away with the wife of *Muræna*, or force her from him, he acquaints his freed man *Priſcus Calvus* with his purpoſe, but he to divert his purpoſe of murder and adultery perſwades his Patron *Milvius* rather to lie with *Muræna*'s wife now, then to doe ſuch things of hazard and evil voice, and diſhonour: and his advice was charitable and prevailed; for though the adultery was future, yet the intended murder was preſent, and the evil was leſſened as much as it could, and no man prejudiced, but the life of one ſav'd. But if he beleeves that by this act *Virginia* will be ſo exaſperated that ſhe will turn adultereſs in revenge, or kill her husband; this is not to be adviſed upon the foregoing reaſon. If a rich Uſurer refuſes to give an alms to a ſtarv'd perſon, he may be adviſed rather to lend him ſome money upon intereſt, then ſuffer him to die for want of bread: but if I beleeve, or probably ſuppoſe or ſuſpect that another man will be confirm'd in the uncharitableneſs, and think becauſe I adviſe him to this, he does well in it, and will live and die in this opinion, then I may not at the charge of another mans ſoul, doe the other wicked perſon that ſmall advantage, which is leſs then can countervail the other evil.

22. 3. He that adviſes the leſſer evil for the avoiding of a greater, muſt not adviſe any thing ſo to ſerve his own *intereſt* or *humor*, as that he ſhall in any ſenſe be delighted with the evil, becauſe ſo he becomes guilty of the others ſin, and then he cannot doe a thing *lawfully*, if it aſperſes him with guilt; and he may not ſerve anothers need with his own evil joyes; and the intereſt of ſouls is not ſet forward when one dies to make another leſs ſick. But beſides this, the queſtion here being whether it be lawful to adviſe a leſs evil for avoiding of a greater, though it be affirm'd to be ſo, when it is wholly for the avoiding the greater; yet it cannot be lawful to give ſuch advice to ſerve my own lower ends: Nothing but the *former* can legitimate ſuch an advice, and therefore this *latter* cannot.

23. 4. No man muſt make uſe of this courſe *himſelf*; for though it be lawful to divert a greater evil by adviſing the leſs to others, yet I may not my ſelf chooſe a leſs, that I may not chooſe a greater; for if this could be lawful, it would be in the power of any man to ſin what ſin he pleaſed, and to threaten his conſcience into a leave; for if he ſhould reſolve he would either kill the father, or lie with the daughter; be *unnatural* in his *luſts*, or *looſe* in his *entertainments*, he might legitimate every leſſer ſin for fear of the greater. But therefore it is certain, that *when he can chooſe either, he muſt chooſe none*, for nothing can make it lawful, *directly* to chooſe any, even the leaſt evil. But when it ſo happens that the conſcience is doubtful and perplex'd, and that in this ſad conjunction of evil and weak thoughts, it ſeems unavoidable but that one muſt be choſen, we may then incline to that which hath leaſt danger, and leaſt miſchief. And this advice was given by the Chancellor of *Paris*: *Si ſub electione proponuntur duo mala, cave neutrum eligas: Nam in malis quid eſt eligendum? At verò ſi culpâ noſtrâ eò recidimus ut neceſſe ſit alterum ex peccatis fieri, minus eſt acceptandum; quia jam in comparatione deterioris, ſortitur boni, ſecundum quid, rationem.* No ſin is to be *choſen* when both can be avoided, but when they cannot, the leaſt is to be *ſuffered*. But when this comes to be another mans caſe that he will not avoid both, though he ſins in chooſing any, yet he that adviſes him rather to take the leſs does not ſin. He that *chooſes the leſs, ſins leſs*, but yet

Gerſon tract. 8. in Magnif. num. 88 lit. F.

yet ſins, becauſe he ſhould chooſe none at all; but *he that adviſes him to chooſe the leſs, ſins not at all*, becauſe he hinders all ſin as much as he can.

24. 5. He that adviſes a leſs ſin for the prevention of a greater, muſt ſee that it be *directly* leſs, and *certainly ſo*; it muſt be in the ſame matter and kinde, and in a leſs degree, becauſe he can no other ways be certain that he hath done any good at all, and may doe a greater evil. For in *degrees of ſin* the caſe is clear when the matter or inſtance is the ſame; but if it be *ſpecifically different*, or in *the whole kinde*, all queſtion of degrees is infinitely uncertain, and therefore the rule is not without danger practicable in ſuch caſes. But of this I have already given ſome accounts in the fifth number of this Rule.

25. But becauſe all this diſcourſe relies upon this main ground, that *the leſſer evil in reſpect of the greater hath the nature of good*, and therefore is to be preferred; or (which is all one) the avoiding of the greater evil is directly a good, and the ſuffering the leſs evil is better then ſuffering the other, yet becauſe it is but *comparatively good*, it is *poſitively evil*; here it is to be inquired, Whether this can be lawful, or is it not a prevaricating of the Apoſtles rule, That *evil is not to be done that good may come of it?* and whether this may be done in any caſe, and by what cautions it can be permitted or made legitimate? This inquiry hath great uſes in the whole life of men, and therefore is not unworthy a ſtricter ſearch.

26. And firſt as to the preſent Rule, it is certain, that this permiſſion is not a doing evil that good may come of it: 1. Becauſe no evil is at all permitted when all can be avoided. 2. Becauſe no man is to act this Rule in his own perſon, upon whom he may and ought to have a power of perſwaſion and effort ſufficient to cauſe himſelf to decline all evil. 3. It is onely permitted to be adviſed to others by ſuch perſons who hate all ſin, and have neither pleaſure nor intereſt in any. 4. It is not a giving leave to any ſin, but an hindring as much as can be hindred. It is not a doing any thing at all of kindneſs to any thing but to the man. It is like that permiſſion which the ſons of *Iſrael* gave to the remnant of the *Canaanites*, to live in the land becauſe they could not deſtroy them all. They kill'd as many as they could, and it was not kindneſs but neceſſity that left thoſe few alive. And the thing was not ill expreſſed by *Petrarch, Duobus aut pluribus ex malis minus malum eligendum eſſe non video, cùm minus malum haud dubiè malum ſit, qualiter mali electio ſit laudanda. Itaque rectiùs dici reor, majora mala majori ſtudio vitanda, ut ſi vitari cuncta non poſſunt, minora faciliùs tolerentur, non electione, ſed patientiâ, æquanimitate, modeſtiâ.* Of two evils the leaſt is not to be choſen, ſince that the leſs evil is without all doubt an evil. Thus therefore I ſuppoſe we ought to ſay; The greater evils are with greater care to be avoided, that if all cannot be declined, the leſs may be better tolerated, not *by choice*, but *by patience*. Now though it be not lawful to doe evil for a good end, yet it is lawful to ſuffer evil to avoid a greater, and to make the beſt of it that we can; which was the counſel which *Cicero* ſays he received from learned men, *Non ſolùm ex malis minima oportere eligere, ſed etiam excerpere ex iis ipſis ſi quid ineſſet boni.*

L. 5 epiſt. rerum ſenilium.

Lib 3. Offic.

27. But to the thing it ſelf, there can be no diſpute but that it is highly unlawful to doe evil for a good end; S. *Pauls* words are *decretory* and *paſſionate* in the thing: He calls it *ſlander*, or *blaſphemy* that they reported it of him that he ſhould ſay, *It was lawful to doe evil that good might come of it*; he alſo affirms

Rom. 3. 8.

that

that though the greatneſs of the ſins of the Jews or Gentiles did magnify the greatneſs of the Divine mercy, yet they whoſe ſins accidentally thus ſerv'd the glorification of God, their damnation was juſt. Though this be clear and certain, yet I doubt not but all the world does evil that good may come of it; and though all men are of S. *Pauls* opinion, yet all men doe not blame themſelves when they doe againſt it. I will therefore firſt repreſent the matters of fact, and then conſider of the allays or excuſes to which men pretend in their private accounts or publick anſwers, and ſo ſeparate the certain from the uncertain, and eſtabliſh the proper meaſures of the propoſition.

28. For firſt if we look in Scripture, we ſhall finde that divers eminently holy have ſerv'd God by ſtrange violences of fact, and for his glory have laid hold upon inſtruments not fit to be handled, but ſuch which would have cut the hands of a Chriſtian, if they had been drawn through them. *David* gave order to *Huſhai* to enrol himſelf in the rebel party, and to deal falſly with *Abſolom*, that he might doe good to *David*; and indeed ſo doe all ſpies, which if they were not neceſſary, would not be uſed in all Armies; and if they be, yet
1 Kings 18.25. they doe that which honeſt men would ſcruple at. * *Elias* the Prophet that he might bring the people from idolatry, cauſed a ſacrifice to *Baal* to be made, and the idol to be invocated, which of it ſelf was ſimply and abſolutely evil; and *Jehu* (though a much worſe man) yet proclaimed an aſſembly for *Baal*, and both of them did it that they might deſtroy the Prieſts of *Baal*, and diſhonour the idol, and doe honour to God, and both did well: * and for ought appears ſo did the ten men of *Shechem* who to redeem their lives from the fury
Jerem. 41. of *Iſhmael* diſcovered the ſecret treaſures of the Nation: * and amongſt the Chriſtians ſome women, particularly *Pelagia* and her daughters have drowned themſelves to prevent the worſe evil of being defloured. * And is it not neceſſary in all Governments that by violence peace ſhould be eſtabliſhed, and by great examples of an intolerable juſtice others ſhould be made afraid. * For ſo doe all Princes knowingly procure their rights by doing wrong; for in all warres the innocent muſt ſuffer that the guilty may be puniſhed: And beſides that all great examples have in them ſomething of iniquity; it were not eaſy to have diſcipline in private Governments, or coercitive power in Laws, if in ſome caſes ſome evil were not to be permitted to be done for the procuring ſome good. For ſuppoſe *Corippus* hath an obſtinate ſervant, ſo perverſe that like the ſides of Elephants his very ſoul grows hard by ſtripes, and that *Corippus* knows this, yet if he have other ſervants who will be corrupted by the impunity of this, he may, he muſt doe evil to the obſtinate, and ruine his ſoul for the preſerving the others. * And indeed if we conſider how ſad, how intolerable an evil it is that a malefactor is ſnatch'd from his ſcene of evil and vile actions, and hurried to hell with his ſins about him; and that for the onely reaſon of doing good to others, and preſerving the publick intereſt, it will ſeem neceſſary that this intereſt be preſerved, and therefore that the other inſtrument be imployed; * for it is natural enough that as truth comes from falſehood, ſo ſhould good from evil, it is not an *accidental* or *contingent product*, but ſometimes *natural* and *proper*; and as God brings good out of evil by his almighty power, ſo doe good men by the nature of the thing; and then the intermedial evil to a wiſe and religious perſon is like unhandſome and ill taſted phyſick, it is againſt nature in the taking and in its operating, but for the preſervation of nature in the effect and conſequent; ſo are ſome evils againſt Religion but uſeful for its advancement. * And this very ſimilitude ſupplies many particulars of the ſame nature. For thus we make children vain-glori-

ous

ous that they may love noble things; and who can govern prudently and wiſely that reſolves never to be angry? and to be angry ſo as to doe the work of government; though it be not bigger then the meaſures of the *Governour*, yet they exceed the meaſures of the *Man*. * Thus for Phyſick it is affirmed to be lawful for a man to be drunk: * And *Cardinal Tolet* allows of voluntary deſires of *pollution* when without it we cannot have our health; and yet to deſire ſuch pollution without ſuch a good purpoſe is certainly criminal, and if for the intereſt of health evil may be done, much more for Religion and effects of holineſs. * But thus I ſaid, it muſt happen in publick Governments: The Chriſtians that dwell in *China*, *Japan*, and in the *Indies* cannot tranſact their affairs with the Heathens without oaths, and therefore they make them ſwear by their own falſe gods, by the names of their idols and devils, which onely they think binding, and neither could there be any ſecurity of faith to Princes or to Subjects, that is, in the publick or private entercourſe without it, and yet without queſtion as to ſwear by Devils and falſe Deities is a high crime, ſo to require or to procure it is a great ſin, and yet it is done for neceſſity. The *Romans* would not truſt the Jews that would ſwear by the *Temple* of *Jupiter*:

Lib. 5. c. 1

Ecce negas, juráſque mihi per Templa Tonantis,
Non credo, jura verpe per Anchialum.

no truſt was given unleſs they ſwore by the God whom they feared, and ſo it is in the caſe of others; and what is neceſſary, it were very ſtrange if it might not be permitted. * And what elſe can be the meaning of diſpenſations, but that a thing which is otherwiſe unlawful is made good by its miniſtring to a good end; that is, it is lawful to doe evil, to break a Law, and leave is given to doe ſo, when it is neceſſary, or when it is charitable. Upon this account it is that preſcription does transferre a right, and confirms the putative and preſumed, in defiance of the legal and proper, and this is for no other reaſon but to prevent uncertainties in title, and eternal contentions, which is a certain doing injury to the right owner, that good may be procured, or evil prevented. * When a man is in extreme neceſſity, the diſtinctions of dominion doe ceaſe; and when *David* and his Souldiers were hungry, they eat the Shew bread which God forbad to all but to the Prieſts; and ſo did the Apoſtles to ſatisfy their hunger break the Sabbath by pulling and rubbing the ears of corn; * and in the defence of a mans own life it is lawful to kill another: which is certainly a doing evil for a good end: and if it be ſaid, that this is not a doing evil, becauſe the end makes it not to be evil, this is a plain confeſſing the queſtion againſt the words of S. *Paul*; for if the good end makes that to be lawful, which of it ſelf without that end is unlawful, then we may conclude againſt S. *Paul*, that it is good to doe evil that good may come; that is, it is changed by the end and by the deſign. * And upon an equal ſtock of neceſſity it is, that all Princes think themſelves excuſed, if by inferring a warre they goe to leſſen their growing neighbours; but this is a doing wrong to prevent a miſchief, as the birds in *Plutarch*, that beat the Cuckow for fear that in time ſhe ſhould become a Hawk. * And this is certain in the matters of omiſſion, though to omit a duty be ſimply evil, yet when it is neceſſary, it is alſo lawful, and when it is charitable it is lawful: Thus *religion* yeelds to *charity*, and *charity* to *juſtice*, and *juſtice* it ſelf to *neceſſity*, and a man is not bound to pay his debts, when to doe ſo will take from him his natural ſupport. * And it is thus alſo in commiſſions; who will not tell a harmleſs lie to ſave the life of his friend, of his child, of himſelf, of a good and a brave man? and to govern children and fools by ſaying falſe things, no man makes a ſcruple: and Phyſicians are commended

Lib. 6. apophth.

mended if with a witty lie they can cozen melancholick and hypochondriacal men into a cure. Thus the man of *Athens*, who phanſied if he ſhould make water he ſhould drown the city, was cured by his Phyſicians ingenious fiction that the city was on fire, and deſiring him to quench it with his urine, leſt water ſhould be wanting in that great neceſſity, ſtruck his fancy luckily, and prevailed upon him to doe that which no direct perſwaſion could effect. Thus *Hercules de Saxonia* having committed to his charge a melancholick man, who ſuppoſing himſelf to be the Prophet *Elias* would needs faſt forty days, dreſs'd a fellow like an Angel, who pretending that he brought him meat from heaven, prevail'd upon him to receive both food and Phyſick. This lie was charitable, and if it was not therefore innocent, then ſome charity can be criminal; but if it was innocent, it was made ſo wholly by the good end, which ſanctified the evil inſtrument. * Thus alſo Judges exact oaths from contradicting parts, though they know that one is perjured, but yet he proceeds by ſuch means to gueſs at truth, and ſatisfy the ſolemnities of Law. * And when the Judges themſelves are corrupt, we think it fit to give them bribes to make them doe juſtice, who otherwiſe would for bribes doe injuſtice; and yet we ſuppoſe we are no more to be reproved then they are who pay intereſt money to the Uſurers and Bankers whom yet themſelves beleeve to ſin. But bribery is a ſin, and bribery in a wrong cauſe is two or three; and therefore let the cauſe be what it will, it is no way tolerable but that it is for a good end. * Thus we venture into danger to ſerve worthy deſigns; ſome read heretical Books to be able to confute them; and ſome venture into perſecutions which they could avoid, becauſe they would not weaken the hands of ſuch who cannot avoid it; and yet to goe to danger is not ſafe, and therefore againſt charity, and therefore a ſin, and yet it is for charity and faith even when it is againſt one of them. * And laſt of all, all men doe, and they beleeve they may make addreſſes to a Tyrant for juſtice, and though he ſits on the Bench by wrong, yet we ſtoop to his purple, and kiſs his rods and axes when we deſire to be defended from the oppreſſion of a leſſer Tyrant; and if this be not a doing evil that good may come of it, then it is no evil to make another doe an act of uſurped power, or to bend to a power which deſtroys that to which we are bound by the *oath of God.*

29. Theſe inſtances I have not brought in oppoſition of the Apoſtles rule, or that I think any man elſe pretends any of theſe in defiance of it, but to repreſent that either a great part of mankinde does it when they leaſt think of it, or that ſome things which ſeem evil are not ſo; and that I may deſcribe the meaſures of theſe things, and eſtabliſh the caſe of Conſcience upon its juſt limits and rule.

30. 1. Therefore it is to be obſerved, that the facts of men living under a Law, are not to be meaſured by Laws of a differing Government, and therefore if the facts of worthy men were exemplary (of which in its proper place I am to give accounts) yet the facts of Saints in the old Teſtament would not be ſafe examples to us in the New; and therefore we may not doe that which *Huſhai* did, for he did well, that is, againſt nothing of the Law under which he ſtood; but if the ſimplicity and ingenuity of our Law gives us other meaſures; the effect will be, that *Huſhai* did not doe evil for a good end, but did well to a good purpoſe. And as to the thing it ſelf, it is very likely that it is lawful to abuſe his credulity, whoſe life I may lawfully take; the cautions and limits of which permiſſion belong not to this preſent inquiry.

2. The

31. 2. The rules of warre, and the meaſures of publick intereſt are not to be eſtimated by private meaſures, and therefore becauſe this is unlawful in private entercourſes, it muſt not be concluded to be evil in the publick. For humane affairs are ſo intricate and intangled, our Rules ſo imperfect, ſo many neceſſities ſupervene, and our power is ſo limited, and our knowledge ſo little, and our proviſions ſo ſhort ſighted, that thoſe things which are in private evils may be publick goods: and therefore in this queſtion, the evil and the good are to be in the ſame kinde; *a private evil* is not to be done for the procuring of *a private good*, but for *a publick* it may: not that *evil* may be done for any thing; but that here it is *not evil*, when it is meaſured by the *publick ſtandard*. For ſince God is the fountain of Government, he alſo gives authority to all ſuch propoſitions which are neceſſary means of its ſupport, not to all which pretend to it, or which are inferr'd by folly or ambition, but which are really ſuch. Warre cannot be made as a man corrects his child, with even degrees of anger, and a juſt number of ſtripes, and equalities of puniſhment both to the perſon and to the offence; and Kings are in the place of God who ſtrikes whole Nations and Towns and Villages; and warre is the rod of God in the hands of Princes, but the evils which are intermedial to the greater purpoſes of a juſt warre are ſuch which are unavoidable in themſelves, and beſides the intentions of good Kings; and therefore in ſuch caſes, though much evil is ſuffered becauſe it is unavoidable, yet none is done of choice, and that makes not againſt the Rule. For,

32. 3. In many of the inſtances objected, the evils which are the ways of procuring good, are not evils in *morality* but in *nature*; and then it is lawful, when there is no malice in the deſign, to prevent the ſin, or to doe a good office by a ſhrewd turn. Thus I may pull my friend out of a pool by a ſtrained arm, and ſave his life by putting his arm out of joynt; and this is a doing evil *materially*, with a pious purpoſe, that is without malice, and for a good end, and that is innocent and charitable, when it is unavoidable, but it is not to be *choſen*, and *done with delight*, or *evil intent*, or *perfect election*: to doe evil to a man in this caſe is beſides the mans intention, it is accidental alſo to the whole event, it is not ſo much as giving unpleaſing Phyſick, not ſo much as impoſing cupping glaſſes and uſing ſcarifications; for this is voluntary and choſen for a good end, becauſe the good cannot elſe well be procured, and yet it is choſen upon thoſe terms by the Patient. Upon this account a man may give his life for his friend, or wiſh himſelf dead; and S. *Paul* wiſh'd himſelf accurſed for his brethren, and *Moſes* deſired to be blotted out of the book of life in zeal for the people of God; and yet all this is a very great charity, becauſe though a man *may not doe evil*, yet *he may ſuffer evil* for a good end; he may not *procure* it, but he may *undergoe it*: and after all, the doing of a natural or phyſical evil may be permitted when there is no motive but charity, for then it is in no ſenſe forbidden; ſometimes neceſſary and unavoidable, but no ways evil or criminal; and if it be, it becomes ſo by accident, or by the intertexture of ſome other ingredient.

33. 4. When the evils are *ſubordinate* or *relative*, the leſs may be done to prevent the greater, though they be not in the ſame matter; as a child may be beaten to prevent a ſin, an offender ſmitten to make him diligent: for theſe actions, though they are in the accounts of evil things, yet have no intrinſecal irregularity, but wholly depend upon the end; But becauſe commonly evil things are done to evil purpoſes, and with irregular meaſures, they have an ill name, but they can be changed when the end is made ſtraight, and the meaſures

ſures temperate. Every thing that is not intrinſecally evil, if it be directed to a good end, is good, unleſs it be ſpoiled by ſome intervening accident.

34. 5. Some things are evils *properly* and *naturally*, ſome by accident, ſome by our own faults, ſome by the faults of others. An action may be innocent as from me, and yet a very great evil by the fault of others: A malefactor put to death, it may be periſhes eternally; if he does, it is his own fault, the Laws are innocent when they ſmite him for the good of others; and this is not a doing evil that good may come of it; for in things not eſſentially and unalterably evil, good and evil are in relations, and though the ſmiting ſome ſinners produce a very evil effect, yet it is only to be imputed to its own cauſe: There is a good and an evil in many things, & God and the Devil have their ſhare of the thing, and ſo have ſeveral perſons, according as they intend, and as they operate: and in this caſe, the Laws intend good, and doe that which is good, that is, they puniſh a Malefactor, but of the accidental damnation, the ſinner that ſuffers onely, is the onely cauſe; and therefore in this, and many like caſes of publike tranſaction there is no evil done for a good end. Thus if any man who is to take an oath be wicked and falſe, the Law may *exact* the oath becauſe that is good, but the Law it ſelf may *uſe* a falſe oath if the man will ſwear it, but then the falſeneſs is the mans that ſwears, not the Laws that exacts it. For to many products there are many *concurrent cauſes*, which are not *integral*, but have each their ſhare; and when cauſes are not *integral*, the portion of effect is to be applied onely by the intention of the agent, and the proportion and order to the end: Indeed if the whole effect were to be imputed intirely to every concurring agent (as in murder every man is principal and integral) then in many of the fore alledged caſes, evil were done for a good end, but then it could not be lawful ſo to doe, but the actions are therefore innocent to ſome agents, becauſe they doe nothing of it but the good ſhare, that which they ought to doe; and that which ſpoils it, comes in at another door.

35. 6. Some Laws of God are ſuch that their rectitude is ſo perfect, the holineſs ſo intire, the uſefulneſs ſo univerſal, the inſtance ſo fitted for all caſes, and the Oeconomy of it ſo handſome and wiſe that it never interferes with any other duty, is never complicated with contradicting matter, or croſs intereſts; now theſe are ſuch which no caſe can alter, which no man may prevaricate, or if they doe they are ſuch which no meaſure can extenuate, which no end can ſanctify: and theſe are either Laws of general reaſon, and common ſanction; or ſpiritual inſtances, and abſtracted from matter. Thus no man may blaſpheme God at any time or for any end, or in any degree; and in theſe caſes it was rightly ſaid in the objections, that if the end can change the inſtrument, then it is not evil to doe any thing for a good end, becauſe the end makes the evil to be good. But then in other caſes, where the inſtances are material, tied up with the accidents of chance, made changeable by relations, tied in ſeveral parts by ſeveral duties, fill'd with various capacities, there the good and the evil are like colours of a doves neck, differing by ſeveral aſpects and poſtures, there abſtractions are to be made, and ſeparations of part from part, of capacity from capacity; and when every man provides concerning his ſhare of influence into the effect all is well, and if one fails, it may be evil is done to the whole production, but it is not imputed to them who took care of their own proportions. * But in ſuch kinds of actions, the limits and meaſures are extrinſecal and accidental, and the goodneſs is not *eſſential*, *natural*, and *original*; and therefore the whole receives variety by *neceſſities*, and by *charity*. For whatſoever

ſoever can be neceſſary by a neceſſity of Gods making, that is lawful: and I may ſerve any greater neceſſity by any thing that is leſs neceſſary, when both neceſſities cannot be ſerved. Thus *Davids* eating the Shew-bread, and the Apoſtles eating corn on the Sabbath, ſerv'd a greater need then could have been ſecur'd by ſuperſtitious or importune abſtinence. In poſitive and temporary commands there is no obligation but when they conſiſt with higher duties; *Actus imperati unius virtutis non debent præjudicare actibus elicitis alterius.* The proper and natural actions of one virtue are ever to be preferr'd before the inſtrumental acts of another. As an act of temperance muſt be preferr'd before a poſture in worſhipping; charity before faſting, or before ceremonies: that is, the more neceſſary before the leſs. It is more neceſſary to ſave the life of a man, then to ſay my prayers at any one time, and therefore I may leave my prayers in the midſt, and run to ſave a man from drowning. This is a thing which cannot ſtay, the other can. For in all ſuch precepts of affirmative duty, there is a ſecret condition annexed, and they oblige not when they croſs a negative. And it is certain there could be no uſefulneſs of knowing the degrees of good or evil, if it were not for prelation and election of one before another: To what purpoſe were it that we are told, *Obedience is better then ſacrifice*, but that we ſhould neglect one and doe the other when both cannot ſtand together? and this order of degrees is the full ground of diſpenſations when they can be allowed in divine Commandements: but in humane diſpenſations there is another, even the want of foreſight, the imperfection of the Laws themſelves which cannot provide for all caſes before-hand, as Gods Laws can; and therefore to diſpenſe with a Subject in a humane Law is not a doing evil for a good end; for to break an humane Law is not intrinſecally an evil, though no expreſs leave be given, as the caſe may happen: but when leave is given, as it is in diſpenſations, then there is no evil at all. And ſomething like this, is that other caſe of preſcriptions, which does indeed transferre a right from a right owner, as it may happen, but this is a doing good and not evil, for it is a preferring a certain poſſeſſion before an uncertain right; or it is a doing a greater good, that is a prelation of a title which hath more evidence, and publick advantage then the other. Beſides, it is done by publick conſent, in which, becauſe every particular is included, there is no evil done, but much is prevented.

23. 7. In actions the *material part* is to be diſtinguiſhed from the *formality*, the *work* from the *affection*: *That* may be wholly *indifferent*, when *this* may be wholly *criminal*. He that drinks till he vomits, by the Phyſicians advice, gives none of his affection to the pleaſure of any thing forbidden, he takes it as he takes a potion or pills, which may have the ſame effect with drink. But when the material part cannot be done without the ſenſe of pleaſure which is forbidden, then the end cannot ſanctify it: and therefore although to drink much for Phyſick may be lawful, yet pollution may not be deſired for health, becauſe that cannot be done or ſuffered without an unlawful pleaſure; and ſo alſo will drinking for health become vicious, if in the acting of the material part, any part of our affections be ſtolen away, and the pleaſure of the exceſs be delighted in.

24. 8. He that makes uſe of the matter of a ſin already prepared to which he gives no conſent, and which he cannot help, does not doe evil for a good end. Thus the Prophet called on the Prieſts of *Baal* to doe what they uſed to doe, that they might never doe ſo again: He was no way the cauſe of a ſin, but of its circumſtances and adjuncts, that it be done *here* and *now*, and this is not

againſt the Apoſtles rule; *time* and *place* are no ſins, and make none unleſs *frequency* be added to the *time*, and *holineſs* to a *place*, and then they may adde degrees or new inſtances to the ſin; but when neither of theſe is procured or injured reſpectively, it is lawful to glorify God by uſing the prepared ſin to good purpoſes. When a Judge is ready to receive money upon any terms, out of this evil we may bring good, and cauſe him to doe a good thing rather then a bad; he does neither well, but that is his own fault; but to give money is a thing indifferent, and to give it for that end which is good, makes it better: and bribery is a word of an ill ſound when it means an evil thing, but when it means well we may finde a better word for it, or mean well by this: though concerning the particular it is not amongſt men eſteemed certain that it is lawful to give money to a Judge: *Sed ſi dedi* (ſays *Ulpian*) *ut ſecundum me in bonâ cauſâ Judex pronunciaret, eſt quidem relatum condictioni locum eſſe: ſed hic quoque crimen contrahit. Judicem enim corrumpere videtur: & non ita pridem Imperator noſter conſtituit litem eum perdere.* Whether it be lawful or no is to be inquired in another place; but as to the preſent inquiry, if it be lawful, I have accounted for it already; if it be not, it is not to be done, no not for juſtice ſake. For in this caſe we no way conſent to the evil, but endevour to bring good out of that evil which is already in being. Thus we run to a Tyrant power for juſtice, he will govern whether we will or no, the ſin will be acted and continued upon his own account; but when the evil matter is thus made ready, we may reap as much *good by it* as we can bring *out of it*; and in this ſenſe is that true and applicable to the preſent which is urged in the objection, That as truth may come from falſhood, ſo may evil from good; when an ill gotten power is apt either to juſtice or injuſtice, we may draw juſtice from it, and then we doe good without cooperating to the evil: that is, we onely doe determine an indifferent agent to the better part: The manner of getting the power is wholly extrinſecal to the miniſtration of it: That is wholly the fault of the Uſurper, but this which is our own act is wholly innocent. If *Nero* ſets *Rome* on fire, I doe no hurt if I warm by the heat, and walk by the light of it; but if I laugh at the flames, or give a fagot to it, I am guilty. And thus the Chriſtians uſe the Heathens oaths for their own ſecurity; the oath is good, and ſo farre it is deſired; that the oath is by a falſe god is the Heathens fault; *this* is effected by *theſe*, but *the other* is onely deſired by *them*: This therefore is not a doing evil for a good end; it is a *deſiring of good*, and a *uſing the evil* matter which is of anothers procuring.

38. 9. There are ſome actions criminal and forbidden in certain States onely, as to kill a man is a ſin, *a private man may not doe it*; but the ſame man when he comes to be a publick Magiſtrate may doe it: A private man alſo may not doe it when he is in the *relation* and *protection of civil ſociety*, becauſe in that, the Laws are his guards, and the publick Judges are his defenſatives; but if a man ſets on me by violence, and ſo puts himſelf into a *ſtate of warre*, he by going from the limits of civil ſociety, takes off the reſtraint which that ſociety put upon me, and I am returned to the liberties of nature; and there is by all Laws a power given a man to defend himſelf, *by Laws*, if he can, and if he cannot, then *by himſelf* and the *means of nature*; and therefore to kill him that would kill me, is not to doe evil for a good end, for the thing is permitted, and therefore *not intrinſecally evil*, and whatſoever is not ſo, may be *accidentally good*.

39. 10. Some of the inſtances are ſuch which are diſallowed by moſt men; ſo *to tell a lie for a good end* is unlawful, upon ſuppoſition that a lie is *intrinſecally evil*;

evil; concerning which the account must be reserved for its own place: for the present, it is certainly unlawful to lie for any end, if that supposition be true; but if lying be onely forbidden for its *unchristableness* or *injustice*, that is, for its effects, then when the end is good, the instrument is tolerable. By these measures all the instances objected can be measured and secured, and by these the Rule it self must be conducted. What cannot be excused upon one of these, is wholly to be reproved as being a direct prevaricating the Apostles Rule.

40. The summe is this; Whatsoever is forbidden by the Law under which we stand, and being weighed by its own measures is found evil; that is, in a matter certainly forbidden, not for any outward and accidental reason, but for its natural or essential contrariety to reason and the Law of God, that may not be done, or procured for any end whatsoever. For every such thing is *intrinsecally* and *essentially evil*, it is evil without *change* or *variety*, without *condition* or *circumstance*, and therefore cannot be made good by any such thing. What is evil in some circumstances may be good in others, and what is condemned for a bad effect, by a good one may be hallowed, but if it be bad of it self, it can never be good, till there come a cause as great to change its nature, as to make it: the cruelty of *a mans habit* or his *choice* can be turn'd, but a *viper will for ever have a venome in his tooth.*

41. But this Rule is also to be extended to cases that are duplicate, and relate to two persons. As if two persons affirm or promise contraries; the first upon a presumptive power and authority over the other, and this other upon firm resolution, and by an intire power over him or her self; though I am bound to hinder his promise from passing into fallacy and deception as much as I can, yet I must rather secure my own. The reason is, because he who had no power over me, could not promise but with a tacite condition; and though he were guilty of temerity and an interpretative breach of promise, yet if the other fails, he is directly and properly guilty. This is still more evident if a Father promises his daughter to *Titius* before witnesses, presuming that his daughter who is a widow will yet be ruled by him, though she be at her own dispose; but his daughter hath solemnly sworn and contracted her self to *Sempronius*: The daughter must be more careful not to break her oath and contract, then by verifying her Fathers promise keep him from a lie; and this was the case of *Acontius* and *Cydippe* in *Ovid*,

Promisit pater hanc, hæc adjuravit amanti:
Ille homines, hæc est testificata Deam.
Hic metuit mendax, sed & hæc perjura vocari,
Num dubitas hic sit major, an ille metus?

This case may be varied by accidents intervening, as if the daughter be under her Fathers power, she hath none of her own to contract or swear; but in an equal power and circumstances, the greater care must be to avoid the greater crime.

42. These Cautions are all which I think necessary for the conducting of a doubting Conscience (that is, a conscience undetermined) in its danger and infirmity: but concerning the matter of doubts, that is indeed, all cases of Conscience, they are to be handled under their proper matter. Concerning interpretation of doubts to the better part, obedience to superiours in a doubtful matter, favourable and easy interpretation of Laws for the deposition of a doubt, though I was tempted to have given accounts in this place, yet I have chosen to referre them to their own places, where by the method and rules

of art they ought to ſtand, and where the Reader will expect them. But concerning the cure of a doubting Conſcience, this is all that I am to adde to the foregoing Rules:

43. A doubtful Conſcience is no guide of humane actions, but a diſeaſe, and is to be cured by prayer and prudent advices, and the proper inſtruments of reſolution and reaſonable determinations; but for thoſe things which are called doubts, and the reſolution of which is the beſt way to cure the infirmity of conſcience, they muſt be derived from their ſeveral *heads* and *categories*. For theſe diſcourſes or advices of Conſcience in general, are intended but as directions how to take our Phyſick, and what order to obſerve *in diebus cuſtodiæ*; but the determining of the ſeveral doubts, is like preparing and adminiſtring the Medicines which conſiſt of very many ingredients.

CHAP. VI.

Of the Scrupulous Conſcience.

RULE I.

A Scruple is a great trouble of minde proceeding from a little motive, and a great indiſpoſition, by which the conſcience though ſufficiently determined by proper arguments, dares not proceed to action, or if it doe, it cannot reſt.

1. *UI nimis emungit, elicit ſanguinem*, ſaid *Solomon*; too violent blowing draws bloud from the noſe; that is, an inquiry after determination, and ſearching into little corners, and meaſuring actions by atomes and unnatural meaſures, and *being over righteous*, is the way not to *govern*, but to *diſorder* our *Conſcience*.

Prov. 28.

2. That it is a great trouble, is a daily experiment and a ſad ſight: Some perſons dare not eat for fear of gluttony, they fear that they ſhall ſleep too much, and that keeps them waking, and troubles their heads more, and then their ſcruples increaſe. If they be ſingle perſons, they fear that every temptation is a πύρωσις, that *burning* which the Apoſtle ſo carefully would have us to avoid, and then that it is better to marry then to ſuffer it; and if they think to marry, they dare not for fear they be accounted neglecters of the glory of God which they think is better promoted by not *touching a woman*. When they are married they are afraid to doe their duty, for fear it be ſecretly an indulgence to the fleſh, and be to be ſuſpected of carnality, and yet they dare not omit it, for fear they ſhould be unjuſt, and yet they fear that the very fearing it to be unclean ſhould be a ſin, and ſuſpect that if they doe not fear ſo, it is too great a ſign they adhere to *Nature* more then to the *Spirit*. * They repent when they have not ſinn'd, and accuſe themſelves without form or matter; their virtues make them tremble, and in their innocence they

are

are afraid; they at no hand would ſin, and know not on which hand to avoid it: and if they venture in, as the flying *Perſians* over the river *Strymon*, the ice will not bear them, or they cannot ſtand for ſlipping, and think every ſtep a danger, and every progreſſion a crime, and beleeve themſelves drowned when they are yet aſhore.

3. *Scruple* ſometimes ſignifies all manner of vexation of the minde; ſo *Cicero pro Sext. Roſcio* uſes it, *Hunc mihi ſcrupulum ex animo evelle, qui me dies noctesque ſtimulat ac pungit.* Take this ſcruple out of my minde which pricks and goads me night and day. So alſo in S. *Hieromes* Bible 1 *Regum* 25. *Non erit tibi in ſingultum & ſcrupulum cordis quòd effuderis ſanguinem innoxium.* It ſhall not be to thee a cauſe of grief and ſcruple of heart that thou haſt ſhed innocent bloud: But in the preſent diſcourſe it hath a more limited ſignification, and according to the uſe of Divines and Canoniſts, means an unquietneſs and reſtleſneſs of minde in things done or to be done, after the doubts of conſcience are determined and ended. *Intolerabilem perturbationem Seneca* calls it, a fear of doing every thing that is innocent, and an aptneſs to doe every thing that can be ſuggeſted,

——nuda ac tremebunda cruentis
Irrepet genibus ſi candida juſſerit Ino.

* Scruple is a little ſtone in the ſoor, if you ſet it upon the ground it hurts you, if you hold it up you cannot goe forward; it is a trouble where the trouble is over, a doubt when doubts are reſolved; it is a little party behinde a hedge when the main army is broken and the field cleared, and when the conſcience is inſtructed in its way, and girt for action, a light trifling reaſon, or an abſurd fear hinders it from beginning the journey, or proceeding in the way, or reſting at the journeys end.

4. Very often it hath no reaſon at all for its inducement, but proceeds from indiſpoſition of body, puſillanimity, melancholly, a troubled head, ſleepleſs nights, the ſociety of the timorous from ſolitarineſs, ignorance, or unſeaſoned imprudent notices of things, indigeſted learning, ſtrong fancy and weak judgement; from any thing that may abuſe the reaſon into irreſolution and reſtleſneſs. It is indeed a direct walking in the dark, where we ſee nothing to affright us, but we fancy many things, and the phantaſms produced in the lower regions of fancy, and nurſed by folly, and born upon the arms of fear doe trouble us.

But if reaſon be its parent, then it is born in the twilight, and the mother is ſo little that the daughter is a fly with a ſhort head and a long ſting, enough to trouble a wiſe man, but not enough to ſatisfy the appetite of a little bird. The reaſon of a ſcruple is ever as obſcure as the light of a Gloworm, not fit to govern any action, and yet is ſuffered to ſtand in the midſt of all its enemies, and like the flies of *Egypt* vex and trouble the whole Army.

6. This diſeaſe is moſt frequent in women, and monaſtick perſons, in the ſickly and timorous, and is often procured by exceſs in religious exerciſes, in auſterities and diſciplines, indiſcreet faſtings and pernoctations in prayer, multitude of humane Laws, variety of opinions, the impertinent talk and writings of men that are buſily idle: the enemy of mankinde by the weakneſſes of the body and underſtanding enervating the ſtrengths of the ſpirit, and making Religion ſtrike it ſelf upon the face by the palſies, and weak tremblings of its own fingers.

7. *William* of *Oſney* was a devout man, and read two or three Books of Religion and devotion very often, and being pleaſed with the entertainment of his time, reſolved to ſpend ſo many hours every day in reading them, as he had read over thoſe books ſeveral times; that is, three hours every day. In a ſhort time he had read over the books three times more, and began to think that his reſolution might be expounded to ſignify in a current ſenſe, and that it was to be extended to the future times of his reading, and that now he was to ſpend ſix hours every day in reading thoſe books, becauſe he had now read them over ſix times. * He preſently conſidered that in half ſo long time more by the proportion of this ſcruple he muſt be tied to twelve hours every day, and therefore that this ſcruple was unreaſonable; that he intended no ſuch thing when he made his reſolution, and therefore that he could not be tied: he knew that a reſolution does not binde a mans ſelf in things whoſe reaſon does vary, and where our liberty is intire, and where no intereſt of a third perſon is concerned. He was ſure that this ſcruple would make that ſenſe of the reſolution be impoſſible at laſt, and all the way *vexatious* and *intolerable*; he had no leiſure to actuate this ſenſe of the words, and by higher obligations he was faſter tied to other duties: he remembred alſo that now the profit of thoſe good books was receiv'd already and grew leſs, and now became chang'd into a trouble and an inconvenience, and he was ſure he could imploy his time better: and yet after all this heap of prudent and religious conſiderations, his thoughts revolv'd in a reſtleſs circle, and made him fear he knew not what. He was ſure he was not oblig'd, and yet durſt not truſt it; he knew his rule, and had light enough to walk by it, but was as fearful to walk in the day as children are in the night. * Well! being weary of his trouble, he tells his ſtory, receives advice to proceed according to the ſence of his reaſon, not to the murmurs of his ſcruple; he applies himſelf accordingly. But then he enters into new fears; for he reſts in this, that he is not oblig'd to multiply his readings, but begins to think that he muſt doe ſome equal good thing in commutation of the duty, for though that particular inſtance become intolerable and impoſſible, yet he tied himſelf to perform that which he beleev'd to be a good thing, and though he was deceived in the particular, yet he was right in the general, and therefore that for the particular he muſt make an exchange. He does ſo; but as he is doing it, he ſtarts, and begins to think that every commutation being intended for eaſe, is in ſome ſenſe or other a leſſening of his duty, a diminution of his ſpiritual intereſt, and a note of infirmity; and then alſo fears, that in judging concerning the matter of his commutation he ſhall be remiſs and partial. * Now he conſiders that he ought to conſult with his *Superiors*; and as he is going to doe ſo, he begins to think that his ſuperior did once chide him for his ſcruple, and that now much more he will doe it, and therefore will rather ſeek to aboliſh the opinion of obligation then change it into another burthen; and ſince he knows this before hand, he fears leſt it ſhall be expounded to be in him an artifice to get himſelf eaſed or chidden out of his duty, and cozened from his obligation. * What ſhall the man doe? He dares not truſt himſelf; and if he goes to another, he thinks that this will the more condemne him; he ſuſpects himſelf, but this other renders him juſtly to be ſuſpected by himſelf and others too. * Well! he goes to God and prays him to direct him; but then he conſiders that Gods graces are given to us working together with Gods Spirit, and he fears the work will not be done for him becauſe he fails in his own part of cooperating; and concerning this he thinks he hath no ſcruple, but certain cauſes of fear. * After a great tumbling of thoughts and ſorrows he begins to beleeve that this ſcrupulouſneſs

of

of conscience is a temptation, and a punishment of his sins, and then he heaps up all that ever he did, and all that he did not, and all that he might have done, and seeking for remedy grows infinitely worse, till God at last pitying the innocence and trouble of the man made the evil to sink down with its own weight, and like a sorrow that breaks the sleep, at last growing big, loads the spirits, and bringing back the sleep that it had driven away, cures it self by the greatness of its own affliction. In this case, the *Religion* is not so great as the *affliction*.

8. But because a scruple is a fear, or a light reason against a stronger and a sufficiently determined understanding, it can bring no other work to the conscience, but that it get it self eased of the trouble, which is to be done by the following Rules.

RULE 2.

A Conscience sufficiently instructed by its proper arguments of perswasion, may without sin proceed to action against the scruple and its weaker arguings or stronger tremblings.

1. THIS is the best remedy that is in nature and reason. S. *Bernard* preached rarely well, and was applauded, but the Devil offering to him the temptation of vain-glory, he in his resisting it, began to think that he had better leave off to preach then begin to be proud; but instantly the Holy Spirit of God discovered to him the deception, and the Devils artifice who would at any rate have him leave off to preach; and he answered, I neither began for thee, nor for thee will I leave off. This is a right course in the matter of scruple: *proceed to action*; and as the reason or the fear in the scruple was not inducement enough to begin, so neither to leave off.

2. Against *a doubting conscience* a man may not work, but against *a scrupulous* he may. For a *scrupulous* conscience does not take away the proper determination of the understanding; but it is like a woman handling of a frog or a chicken, which all their friends tell them can doe them no hurt, and they are convinced in reason that they cannot, they beleeve it and know it, and yet when they take the little creature into their hands they shreek, and sometimes hold fast and finde their fears confuted, and sometimes they let goe, and finde their reason useless.

3. *Valerius* of *Hippo* being used always to fast till high noon of festivals, falls into an ilness of stomack, and is advised to eat something in the morning; all the reason of the world that is considerable and pressing, tells him he may doe it lawfully, but because he hath not been used to it, and good people in health doe not doe it, he is fearful to doe that which others doe not, that need it not; this is a slight ground, and with it perfectly may stand his practical determination of conscience that it is lawful for him; which final determination, because it is the next and immediate rule of actions cannot be impeded by that which suffers this perswasion still to remain, because the doing onely against such

ſuch a perſwaſion can onely be a ſin, for that onely is the tranſgreſſion of the immediate Law; to doe conformably to ſuch determination is to doe it with faith; and if the ſcruple can leſſen it, yet it onely makes the *man* the *weaker*, but cannot deſtroy the *aſſent*.

4. Adde to this, that ſince ſcruples doe ſometimes make men mad, doe detriment to our health, make Religion a burden, introduce a wearineſs of ſpirit and tediouſneſs, it cannot be a ſin to ſtop all this evil, and directly to throw away the ſcruple and proceed to contrary actions.

5. But this is to be underſtood onely, when the ſcruple is ſuch that it leaves the conſcience *practically* determined. For if the ſcruple prevails upon his weakneſs ſo farre as to riſle the better reaſons, the conſcience loſes its *rule* and its *ſecurity*, and the *ſcruple* paſſes into a *doubt*, and the *Law* into a *conſultation*, and the *judgement* into *opinion*, and the *conſcience* into an *undiſcerning*, *undetermined faculty*.

6. Hither is to be reduced the caſe of a *perplexed conſcience*; that is, when men think that which part ſoever of the contradiction they chooſe, they ſin; for though that be impoſſible to wiſe men, yet all men are not wiſe; and if it were impoſſible in the thing, yet it is certainly poſſible upon the diſtempers of ſome men: and becauſe a man hath contrary reaſonings and divided principles within, as our bleſſed Lord had a natural deſire not to die, and yet a reaſonable and a holy ſpiritual deſire to ſubmit to his Fathers will, and if he pleaſe, to die; ſo hath every man deſires to pleaſe an appetite, or ſecure an intereſt of ſecular deſigns, and a reaſon to ſerve the intereſt of his ſpirit in ſpiritual deſigns: But although in our bleſſed Lord the appetites of nature were innocent and obedient, and the ſpirit always got a clear victory, and the fleſh reſiſted not, yet in us it is not ſo; and ſometimes ſpiritual complications doe diſturb the queſtion, and make the temporal end ſeem religious or pious; and the contrary pretence is pious too, and yet a duty will be omitted which way ſoever be choſen, or a ſin committed as is ſuppoſed; here the caſe ſeems hard.

* It is certain that there is no ſuch caſe in the world, that it is neceſſary for a man to ſin which part ſoever he takes, and unleſs it be his own fault he cannot think ſo; but ſome men are wilde in their reaſonings, and erre in circles, and cannot untie the knots themſelves have knit. Some are weary, and many are involved, and more are fooliſh; and it is as poſſible for a man to be a fool in one propoſition as in another, and therefore his error may be this, that *which part ſoever he chooſes he ſhall ſin*; what is to be done here is the Queſtion?

7. The caſe is this; *Pratinus* a Romane Souldier turns Chriſtian, and having taken his military Sacrament before, and ſtill continuing the imployment, he is commanded to put to death certain criminals, which he undertakes, becauſe he is bound to it by his oath. Going to the execution he finds they were condemned for being Chriſtians; then he ſtarts, remembring his Sacrament or oath on one ſide, and his faith on the other; that is, his Religion on both; by which he is bound neither to be perjured, nor to kill his Brethren: The Queſtion is not how he might expedite his doubt, and ſecure his conſcience by chooſing the ſurer part, but what he is to doe, this perplexity remaining, that is, he not being able to lay aſide either part of the doubt; for his queſtion is not whether of the two he ſhall doe, but is perſwaded that to doe either is a high crime.

8. 1. Concerning this, it is evident, that if the caſes be equal, and the event not to be diſtinguiſhed by him in the greatneſs of its conſequent or malice of it,

it, it is indifferent to him which he chooses; and therefore there can be no Rule given which he must take, unless he could be convinced of one that it is lawful, and the other unlawful; but in his case that not being to be done, he ought to know that in this case he sins not if he takes either, because all sin is with liberty and choice, at least with complacency; but his error is an *infelicity* and no *sin*, if he neither chooses it, nor delights in it, which in the present case he is supposed not to doe.

9. 2. But if in the event of the actions and parts of choice there be a real or apprehended difference, he is bound to choose that part which he beleeves to be the less sin; this being a justification of his will, the best that can be in the present case; but if he chooses that which is of worse event, he hath nothing to excuse it.

RULE 3.

He that is troubled with scruples, ought to rely upon the judgement of a prudent Guide.

1. THE reason is, because his own understanding is troubled and restless, and yet his reason determined; and therefore he can but use the best way of cure, which in his particular is to follow an understanding that is equally determined as is his own, and yet not so diseased.

2. Adde to this, that God hath appointed spiritual persons, Guides of souls, whose office is to direct and comfort, to give peace and conduct, to refresh the weary, and to strengthen the weak, to confirm the strong, and instruct the doubtful; and therefore to use their advice is that proper remedy which God hath appointed. *. And it hath also in it this advantage, that there is in it humility of understanding, a not relying on our own wisdome, which by way of blessing and disposition will obtain of God that we be directed. *Consule bonos, prudentésque viros, & acquiesce eis*, was an old advice, and derived from *Solomon* and *Tobit*; *lean not on thy own understanding*; but ask counsel of all that are wise, and despise not any counsel that is profitable. Antonin. in sum. 1. p. tit. 3. c. 10.

RULE 4.

When a doubt is resolved in the entrance of an action, we must judge of our action afterwards by the same measures as before; for he that changes his measures, turns his doubt into a scruple.

1. THE reason of the Rule is this, That which is sufficient for *satisfaction before*, is sufficient for *peace afterwards*. A Christian in the Diocese of *Salamis* being faint in his stomack before the reception of the holy Sacrament, disputes whether he may take a cordial or a glass of wine. Upon inquiry he is told,

told, That to receive the holy Sacrament *virgine ſaliva*, faſting is a cuſtome of the Church later then the times of the Apoſtles, as appears by the *Corinthian* uſages mentioned by S. *Paul*; that it having no *authority* but *cuſtome*, no *ſanction* but a *pious fancy*, and a little proportion and analogy of reverence, it ought to yeeld to the *elicite* acts of charity: Upon this account he being ſatisfied, drinks a little, is well, and communicates with *health*, and *joy*, and *holineſs*. But afterwards reflecting upon what he had done, he begins to fear he had not done well; that he had done againſt the cuſtomes of the Church, that it was *at leaſt infirmity* in him, and upon what account with God that ſhould be, which in his own moſt gentle ſentence was at leaſt, *infirmity*, he knew not; and twenty other little things he thought of, which *ſignified* nothing, but *did* ſomethings, they meant no good, but did great evil: and finding himſelf got into a net, he calls for help, but is told that he muſt get out of it by the ſame way that he came in, and that which was the ſufficient cauſe of his doing the action, was ſufficient alſo for the juſtification of it, and let him confront the reaſons which introduc'd the action againſt theſe flies and little pretenſions which diſturb his minde, and he ſhall finde that he hath reaſon to be aſhamed of debauching and proſtituting his underſtanding to ſuch trifles and images of argument: For let a man look to his grounds when he begins to act, and when he hath acted, let him remember that he did his duty, and give God thanks. For if any juſt cauſe appear for which he ought to reprove his former determination; that juſt cauſe can have no influence upon what is paſt, if the firſt proceeding was *probable*, and *reaſonable*, and *diſ-intereſt*. He knows ſomething which he did not know before; and for the time to come is to walk by this newly kindled taper, but if he in the firſt inſtance walked by all the light he had, he is not tied to walk it over again: for as God will not of a child exact the prudence and cautions of a man, but in every age expects a duty anſwerable to the abilities of it; ſo it is in all the ſtages of our reaſon, and growing underſtanding. According to what we have, and not according to what we have not we ſhall give accounts. This is intended to prove that if we proceed *probably*, we are not tied to ſorrow and repentance, though afterwards we finde a greater reaſon to the contrary; but this concludes more in the preſent queſtion of *ſcruple*, in which the greater probability goes before, and the leſs comes after.

But the Rule is to be managed with theſe Cautions:

2. 1. Take heed that in the beginning we doe not miſtake our deſires to have it done, for a ſufficient warrant that it may. For if we enter in at a wrong door, or at the windows, we muſt goe back, and cannot own that entrance which was like a Theef, or that action which was done with more craft then prudence.

3. 2. Be not too eaſy in the arguments of probation. For although in actions concerning our eternal intereſt, God expects no more of us but that we ſhould walk by the meaſures of a man; yet we doe not perform our duty if we act by the meaſures of a child or a fool. If we could doe no better, the *action* might be more reprovable then the *man*; but if we could conſider better and wiſer then when we reflect afterwards upon what we did before, and finde a fault or a ſin, a negligence or an avoidable error in the principle, we cannot from thence bring reſt and confidence to our conſciences.

4. 3. Separate your queſtion as much as you can from intereſt, that your determination and inquiry be pure; and if more arguments occurre afterwards then did in the firſt inquiry, remember that it was well enough at firſt,

if

if it was probable enough; and for the rest, *pray to God to accept you*, if you did *well* and *wisely*, and *to pardon you* in what was done *amiss*, or *negligently*, or *imperfectly*.

RULE 5.

A scrupulous Conscience is to be cured by remedies proper to the disease, and remedies proper to the man.

1. THat is, there are some advices which are directly intended for the lessening the scruple, and some others which take away the scruple by curing the man, and taking off his distemperature. Those which are directly intended against the scruple, besides the Rules before described, are these:

Remedies against the Scruple.

2. 1. Let the afflicted and disquiet man often meditate of the infinite goodness of God, and how his justice is equity, and his jndgements are in mercy; that he judges us by what we heartily endevour, but does not put our infelicities into our accounts of sins.

3. 2. Let him be instructed that all Laws Divine and Humane are desirous of sweet and merciful interpretations, and that of themselves they love to yeeld to necessity and to charity; and that severity and exactness of measures is not onely contrary to the *goodness*, but to the *justice* of God, who therefore will pity us because we are made of dust, and are a lump of folly and unavoidable infirmities; and by the same justice by which God *is eternally angry* with the fallen Angels, by the same justice he *is not finally angry* with man for his first follies, and pities all his unavoidable evils.

4. 3. Let it be remembred that charity is the fulfilling the Law, and by the degrees of it a man tends to perfection, and not by *forms* and *tittles* of the letter, and *apices* of the handwriting of ordinances. And that if he loves God and *does his best*, and concerning the *doing his best* make the same judgements *real* and *material*, that he does of the other actions of his life, he certainly does all that can belong to him, and all that which can be wise and safe. He that acts according to the *reason of a man*, ought to have *the confidences of a man*, for no other *confidence* can be *reasonable*. That is charity that we doe *carefully* and *wisely*, and follow the *best* we can.

5. 4. Let it be considered that to incline to the scruple, and neglect the stronger reason that stands against it, is to take the worse end, it is to doe that which must seem worse; and then it may be remembred, that if the man is afraid and troubled with the *trifle*, with the *scruple*, when he hath stronger reason to secure him, if he yeelds to the scruple and neglects the stronger reason, the neglect of that will run upon him like a torrent and a whirlewind, and the scruple, or the bulrush will not support his building.

6. 5. Since the very design of the Euangelical Covenant is, that our duty be demanded, and our sins accounted for, according to the measures of a man, and

and not by the proportions of an Angel; and that all our infirmities and ignorances, and unavoidable prejudices are taken into account, beſide the infinite remiſſions on Gods part, it will follow that by this goodneſs of God and a moral diligence, and a good heart we are ſecured, but we can never be ſecured by our own meaſures. For let us weigh never ſo *exactly*, we may miſs ſome grains or ſcruples, but to ſnatch greedily at the little overrunning duſt of the ballance, and to throw away the maſſive ingots that ſunk the ſcales down, is the greateſt folly in the world.

7. 6. The lines of duty are ſet down ſo clear and legible, are ſo agreeable to reaſon, ſo demonſtrable upon their proper principles, are ſo eaſy and plain, that we need not run into corners, and ſneaking by-lanes to finde it out: If by little undiſcerned minutes we were to ſtand or fall, though now there are but few that ſhall be ſaved, yet but a few of thoſe few ſhould eſcape eternal death. The counſels of God are not like the Oracles of *Apollo*, double in their ſenſe, intricate in their expreſſion, ſecret in their meaning, deceitful in their meaſures, and otherwiſe in the event then they could be in their expectation. But the word of God in the lines of duty is open as the face of heaven, bright as the Moon, healthful as the Suns influence; and this is certainly true, that when a thing becomes obſcure, though it may oblige us to a prudent ſearch, yet it binds us not under a guilt, but onely ſo farre as it is or may be plainly underſtood.

8. But in the caſe of a *ſcrupulous conſcience*, it is not the thing ſo much that troubles the minde, as the indiſpoſition of the part, the man hath a vicious tenderneſs; it is melancholy and fear, and as *very accident* can trouble the *miſerable*, ſo *every fancy* can affright the *timorous*; the chiefeſt remedies therefore muſt be by applications to the man, to cure his diſtemper, and then the ſcruple will work no more then its own activity will enable it, and that is but *little* and *inconſiderable*.

Advices to the ſcrupulous man.

1. The caſe of the ſcrupulous man is ſo full of variety, or uncertainty ra-
9. ther that it is as eaſy to govern chance, and to give rules to contingency as to him. In all other caſes there is a meaſure and a limit, and therefore a remedy can be proportioned to it; but in this, fear is the diſeaſe, and that alone is infinite; and as it commences oftentimes without cauſe, ſo it proceeds without limit. For by what reaſon it entred in, by the ſame it may grow; that is, without any cauſe at all it may increaſe for ever. * But for the remedy, this is conſiderable; That the worſe it is, the better it may be remedied, if we could conſider. For when fear is grown ſo bigge that it is unreaſonable, the cure is ready and plain, that *it muſt* be laid aſide becauſe it is *intolerable*, and *it may* becauſe it is *unreaſonable*. When it comes from a juſt cauſe, that juſt cauſe is uſually the limit of it: but when it is vaſt and infinite it hath no cauſe, but weakneſſe, and it appears enough in the inſtances; for the ſcrupulous man fears concerning thoſe things where he ought to be moſt confident; he fears that God is angry with him for not doing his duty, and yet he does whatſoever he can learn to be his duty. * This is a complication of evils, as melancholy is of diſeaſes. The ſcrupulous man is timorous, and ſad, and uneaſy, and he knows not why. As the melancholy man muſes long, and to no purpoſe, he thinks much, but thinks of nothing; ſo the ſcrupulous man fears exceedingly, but he knows not what nor why. It is a Religious melancholy, and when

when it appears to be a diſeaſe and a temptation, there needs no more argument againſt its entertainment. We muſt rudely throw it away.

10. 2. He that is vexed with ſcruples, muſt fly to God by prayer and faſting, that this lunacy and ſpirit of illuſion which ſometimes *throws him into the fire*, and *ſometimes into the water* may be ejected, and the Spirit of God, and the Spirit of wiſdome may come in ſubſtitution according to the promiſe ſo often recorded in the holy Scriptures. Luke 11. 13. James 1. 5.

11. 3. Let the ſcrupulous man change the tremblings of his ſpirit to a more conſiderable object, and be ſure if he fears little things, let him fear great things *greatly*, every known ſin let him be ſure to avoid, *little* or *great*, for by this *purity he ſhall ſee God*, and the things of God, *peace* and *truth*, and the honeſty of his heart will bear him out from the *miſchief*, if not quit from the *trouble* of the *ſcruple*: * at no hand let it be endured that he ſhould think this diſeaſe or vicious tenderneſs in ſpirit is able to excuſe him from his duty in greater things. Some ſcruple at an innocent ceremony, and againſt all conviction and armies of reaſon will be troubled and will not underſtand; this is very bad, but it is worſe that he ſhould think himſelf the more godly man for being thus troubled and diſeaſed, and that upon this account he ſhall fall out with *Government* and *deſpiſe it*, this man nurſes his ſcruple till it proves his death, and inſtead of curing a bile, dies with a cancer, and is like a man that hath ſtrained his foot and keeps his bed for eaſe, but by lying there long falls into a *lipothymie*, and that bears him to his grave.

12. 4. Let the ſcrupulous man avoid all exceſs in mortifications and corporal auſterities, becauſe theſe are apt to trouble the *body*, and conſequently to diſorder the minde, and by the prevailing fond perſwaſions of the world they uſually produce great opinions of ſanctity and ignorant confidences of Gods favour, and by ſpending the religion of the man in exterior ſignifications make him apt to take his meaſures from imperfect notices, and then his religion ſhall be *ſcruple* and *impertinency*, full of trouble, but good and profitable for little or nothing. *Admiratione digna ſunt* (ſaith *Cardan*) *quæ per jejunium hoc modo contingunt: ſomnia, ſuperſtitio, contemptus tormentorum, mortis deſiderium, obſtinata opinio, inſania: jejunium naturaliter præparat ad hæc omnia.* It is wonderful to conſider what ſtrange products there are of faſting: Dreams ſuperſtition, contempt of torments, deſire of death, obſtinacy in opinion, and madneſs. To all theſe, faſting does naturally prepare us: and concerning S. *Hilarion* it is reported by S. *Hierome*, *Ita attenuatus fuit jejunio & vigiliis in tantum exeſo corpore ut oſsibus vix hærebat: unde nocte infantum vagitus, balatus pecorum, mugitus boum, voces & ludibria dæmonum, &c.* that he was ſo lean and dried with faſting and watching, that his fleſh did ſcarce cleave to his bone: Then his deſires and capacity of ſleep went away, and for want of ſleep he muſt needs grow light headed, and then the illuſions of the Devil were prepared and certain to prevail; then his brains crowed, and he heard in the deſert children crying, ſheep bleating, bulls lowing, and rattling of chains, and all the phantaſtick noiſes raiſed by the Devil. Much to the ſame purpoſe is by S. *Athanaſius* reported of S. *Anthony*. It was this exceſs that made S. *Hierome* ſo ſcrupulous in reading of *Tullies* Orations; it was not an Angel, but his own dreams that whipp'd him for making and reading good Latin and good ſenſe. After long faſting it was that S. *Gulſlach* of *Crowald* fought with the Devil, and ſuch irregular auſterities have been in all ages of ſuperſtition, the great inſtru-

Lib. 8. c. 19. De rerum varietate.

Epiſt. l. 3

ment of Satan by which his illusions became Oracles, and religion was changed into superstition, and the fear of God into timorousness, and inquiry into scruple.

13. 5. Let the scrupulous man interest himself in as few questions of intricate dispute, and minute disquisition as he can; they that answer fewest, doe commonly trouble themselves with most. Curious questions may puzzle every man, but they can profit no man, they are a certain disturbance, they are rebels in the kingdome of the inner man, they are just the same things in *speculation* which *scruples* are in *practice*, and therefore because *notice* properly tends and directs to *action*, the increase of *them* will multiply *these*. *Avoid them* therefore, for not *these*, but *things practical are the hinges of immortality*; but the other break the peace of the superior faculties, they trouble the understanding and afflict the conscience and profit, or instruct no man.

14. 6. He that would cure his scrupulousness must take care that his Religion be as near as he can to the measures and usages of common life. When S. *Anthony* was troubled with a scrupulous conscience, which so amaz'd him, that he thought it was impossible for him ever to arrive at heaven, an Angel came to him in the likeness of a Hermit, or rather an Hermit spake to him like an Angel and said, *Nunc paululum laborando manibus, nunc genibus flexis orando, deinde corpus reficiendo, pòst quiescendo, & rursus iterum operando, Antoni, sic fac tu & salvus eris.* Sometimes labour with thy hands, then fall on thy knees and pray, then refresh thy body, then sometimes rest, and then labour again; and so thou shalt be saved. Let us take care that our Religion be like our life, not done like *pictures*, taken when we are dressed curiously, but looking as the actions of our life are dressed, that is, so as things can be constantly done, that is, that it be dressed with the usual circumstances, imitating the examples, and following the usages of the best and the most prudent persons of his communion; striving in nothing to be singular, not doing violence to any thing of nature, unless it be an instrument or a temptation to a vice. For some men mortify their *natures* rather then their *vicious inclinations* or their *evil habits*, and so make Religion to be a burden, a *snare*, and an *enemy*. For in *scrupulous*, that is, in *melancholy persons* nature is to be cherished in every thing where there is no danger, that is, where she is not *petulant* and *troublesome*. Such men have more need of something to *repair* their house, then to *lessen* it.

15. 7. Let the scrupulous man take care that he make no vows of any lasting imployment. For the disease that is already within, and this new matter from without will certainly make new cases of Conscience, and new fears and scruples upon the manner, and degrees, and circumstances of performance. Therefore what ever good thing they intend, let them doe it when they can, when it is pleasant, when it is convenient, and always reserve their liberty. For besides that to doe otherwise must needs multiply scruples, it is also more pleasing to God that we make our services to be every day *chosen*, then after one general choice of them, to have the particulars *done* and *hated*.

16. 8. But that I may summe up many particulars in one. The scrupulous man must avoid *those companies*, and those *imployments*, and those *books* from whence the clouds arise, especially the books of ineffective and phantastick notion, such as are *Legends* of Saints, *ridiculously* and *weakly invented*, furnished out for *Idea*'s, not for actions of common life, with dreams and false propositions; for the scrupulous and fearful will easily be troubled, if they finde them-

themſelves fall ſhort of thoſe fine images of virtue which ſome men deſcribe, that they might make *a fine picture*, but *like no body*. Such alſo are the Books of *myſtical Theology*, which have in them the moſt high, the moſt troubleſome, and the moſt myſterious nothings in the world, and little better then the effluxes of a *religious madneſs*. *

17. 9. Let the ſcrupulous man endevour to reduce his body into a fair temper, * and enkindle in his minde a great love and high opinions of God and Gods mercy, and by proper arts produce joy in God, and rejoycings in the Spirit; * let him purſue the *purgative way of religion*, fight againſt and extirpate all vicious habits and evil cuſtomes, doe the actions of virtue frequently and conſtantly, but without noiſe and outcries, without affectation and ſingularity; that religion is beſt which is incorporated with the actions and common traverſes of our life; and as there will be ſome fooliſh actions, ſo there will be matter for repentance; let this *humble* us, but not *amaze* us and *diſtract* us.

18. 10. Let all perſons who are or uſe to be thus troubled with *flies*, and impertinencies of *reaſon* and *conſcience* be carefully and wiſely inſtructed in thoſe practical propoſitions which are the general lines of life, which are the axiomes of Chriſtian Philoſophy, which like the rules of Law have great influence in many virtues, and have great effect towards perfection. For the more ſevere the rules are, the more apt they are to be the matter of ſcruple when they are not underſtood in their juſt meaſures. Such as are, *It is the part of a good minde to acknowledge a fault where there is none.* * *Not to goe forward is to goe backward.* * *He that loves danger ſhall periſh in danger.* * *Hold that which is certain, and let goe that which is uncertain.* There are many more, of which I am to give accounts in the next Book, and from thence the ſcrupulous may derive aſſiſtances.

" Concerning the matter of ſcruples, I on purpoſe decline the conſide-
" ring of it here, becauſe either every thing or nothing of it is to be handled.
" A ſcruple may ariſe in the doing of every duty, in the remembrance of every
" action; and to ſtop one gap, when the evil may enter in at 500. I did ſup-
" poſe not to be worth my labour. I therefore reſerve every thing to its own
" place, being content here to give the meaſures and rules of conſcience in
" its ſeveral kinds, and differing affections, that is, in all its proper capacities
" which can relate to action.

OF THE

RVLE OF CONSCIENCE.

viz.

The Laws Divine and Humane,

And

All collateral Obligations.

THE SECOND BOOK.

CHAP. I.

Of the Law of Nature in general.

RULE I.

The Law of Nature is the Universal Law of the world, or the Law of mankinde, concerning common necessities to which we are inclined by Nature, invited by consent, prompted by reason, but is bound upon us onely by the commands of God.

1. Constit. Apost. l. 1. c. 6.

Σπου σοὶ περὶ ὀφθαλμῶν γινώσκειν τὸν νόμον φυσικὸν, καὶ τὰ παρ' ἐπιδευτερώσεως, said the Apostolical constitution; Be careful to understand what is the Law natural, and what is superinduc'd upon it. The counsel, abating the authority and reverence of them that said it, is of great reasonableness. For all men talk of the law of Nature, and all agree that there is such a material law which some way or other is of the highest obligation; but because there are no Digests or Tables of this law, men have not onely differ'd about the number of them, and the instances themselves, but about the manner of drawing them forth, and making the observation: whereas if the law of Nature were such a thing as it is supposed generally, these differences would be as strange and impossible, as that men should disagree about what is black, or what is yellow, or that they should dispute concerning rules to signify when they desire, or when they hope, or when they love. The purpose of the present intendment will not suffer me to make large disputes about it, but to observe all that is to be drawn from it in order to Conscience and its obligation.

The

The Law of Nature]

2. *Jus naturæ*, and *Lex naturæ* are uſually confounded by Divines and Lawyers, but to very ill purpoſes, and to the confuſion and indiſtinction of all the notices of them. *The right of nature*, or *Jus naturæ* is no *Law*, and *the law of nature* is *no natural right*. *The right of nature* is a perfect and univerſal liberty to doe whatſoever can ſecure me or pleaſe me. For the appetites that are prime, original, and natural, doe deſign us towards their ſatisfaction, and were a continual torment, and in vain, if they were not in order to their reſt, contentedneſs and perfection. Whatſoever we naturally deſire, naturally we are permitted to. For natures are equal, and the capacities are the ſame, and the deſires alike; and it were a contradiction to ſay that *naturally* we are reſtrained from any thing to which we *naturally* tend. Therefore to ſave my own life, I can kill another, or twenty, or a hundred, or take from his hands to pleaſe my ſelf, if it happens in my circumſtances and power; and ſo for *eating*, and *drinking*, and *pleaſures*. If I can deſire, I may poſſeſs or enjoy it: this is, *The right of nature*. *Jus naturæ*, by *jus* or *right*, underſtanding not a *collated* or *legal right*, *poſitive* or *determined*, but a *negative right*, that is, ſuch a right as every man hath without a Law, and ſuch as that by which the ſtones in the ſtreets are mine or yours; by a right that is negative, becauſe they are *nullius in bonis*, they are appropriate to no man, and may be mine; that is, I may take them up and carry them to my bed of turf, where the *natural*, *wild*, or *untutored man* does ſit. But this is not *the Law of nature*, nor paſſes any obligation at all. Valla Elegant. l. 4. c. 48.

And indeed nature her ſelf makes not a Law:

Nec natura poteſt juſto ſecernere iniquum,

and this opinion *Carneades* did expreſs, but rudely, and was for it noted by *Lactantius*. He ſaid there was no law of nature. But the Chriſtians who for many ages have followed the School of *Ariſtotle*, have been tender in ſuffering ſuch expreſſions, and have been great promoters of *Ariſtotles* doctrine concerning the τὸ φυσικὸν, the natural Law. But indeed *Ariſtotle* himſelf in this was various and indetermined. For in his *Ethicks* he affirms that ſome think the natural law to be [τὸ μὲ φύσῃ ἀκίνητον καὶ πανταχοῦ τὴν αὐτὴν ἔχῃ δύναμιν, ὥσπερ τὸ πῦρ καὶ ἐνθάδε καὶ ἐν Πέρσαις καίει] unalterable, and of the ſame force every where, as fire burns here and in *Perſia*: and yet he himſelf makes it *mutable*, and that it is not the ſame among all Nations; for ſo he in his Rhetoricks ſays, ἔστι γὰρ ὃ μαντεύονταί τι πάντες, φύσει κοινὸν δίκαιον καὶ ἄδικον κἂν μηδεμία κοινωνία πρὸς ἀλλήλους ᾖ, μηδὲ συνθήκη, that ſome doe *Divine* [not demonſtrate] *that ſome things are juſt or unjuſt by nature, without any Covenant or Society*; intimating, that without a covenant or contract tacite or explicite, there can be no Law: and if it depends upon contract, it muſt be variable as neceſſity, and contingency together; and ſo he affirms, That there is nothing ſo naturally juſt but it is variable; and although the right hand is in moſt men the ſtrongeſt, yet in ſome the left hand is. Διανεμητικὸν δίκαιον τῶν κοινῶν ἀεὶ κατ' ἀναλογίαν ἔστι τὸ εἰρημένον. Diſtributive juſtice is by proportion, and therefore it is variable; and in general he affirms of all juſtice, ὅ γε δίκαιον ἀνάλογον, juſtice is in proportion and relation. L. 5. c. 10. Lib. 1. c. 13. & 15. Lib. 5. c. 7. Ethic.

4. For juſtice is ἀλλότριον ἀγαθὸν, that is, πρός ἕτερον, a relative excellency, and therefore muſt ſuppoſe ſociety, and a paction or covenant. For a man cannot be unjuſt to himſelf or to his own goods which are abſolutely in his

Ethic. l. 5 c. 10. power. οὐκ ἔστιν ἀδικία πρὸς ἄλλον and therefore Juſtice, I mean that univerſal virtue that contains all elſe within it,

Ἐν ᾧ δικαιοσύνη συλλήβδην πᾶσ' ἀρετή ἐστι,

is a virtue that hath its being from ſomething ſuperinduc'd upon nature. Juſtice is *natural*, as all virtues are, that is, *reaſonable and perfective of our nature*, and *introductive of well-being*: But *nature alone* hath not injoyn'd it *originally*, any more then *matrimonial chaſtity* was a *natural law*, which could not be at all before *Eve* was created, and yet our nature was perfect before. *Juſtum nihil eſt non conſtitutâ lege*, nothing is juſt or unjuſt of it ſelf, until ſome Law of God or man does ſupervene; and the Scepticks generally, and amongſt the Dogmaticks *Ariſtippus* ſaid, that nothing is juſt by nature, but onely νόμῳ καὶ ἔθει, by law and cuſtome; which in what ſenſe it is to be admitted, I ſhall explicate in the following periods.

——*is the univerſal law of the World.*]

Rhetor. l. 1. c. 11. ὁ κοινὸς νόμος, ſo *Ariſtotle* calls it [*The law of mankinde*] *Commune omnium hominum jus*; ſo *Juſtinian*; which is not to be underſtood of all men in all things
L. 9. ff. de jure & juſtitia. abſolutely, but eſpecially of all wiſe or civil Nations that communicate with each other. *Lucretius* reſtrains it to neighbours,

Tunc & amicitiam cœperunt jungere habentes
Finitima inter ſe nec lædere, nec violare.

But many Nations have thought, and ſome think ſo ſtill, that they may hurt ſtranger people, the poſſeſſors of farre diſtant Countries, barbarous and ſavage people: The Romans who were the wiſeſt of all Nations did ſo.

Arbiter. ——*ſi quis ſinus abditus ultra,*
Siqua foret tellus quæ fulvum mitteret aurum
Hoſtis erat——

All people whom they call'd barbarous, or whom they found rich were their enemies.

5. But there are ſome laws of Nature which belong to all abſolutely, to whom any notice of the true God and of good manners is arrived; particularly thoſe which belong to *common religion*: But in the *laws of juſtice*, the *law of nature* is more reſtrained, becauſe it does not onely, like the *laws of religion*, ſuppoſe ſome communications of command from God, but ſome entercourſe with man; and therefore are obligatory, or extended in proportion to the proximity and communication. But the law taken in its integrity, or according to its formal reaſon, is the law of all mankinde; for all men in all things are bound to it.

Concerning ſome common neceſsities]

This deſcribes the matter and body of *natural Laws*. For there is nothing by which the laws are denominated *natural* more then by this, that they are proviſions made for the natural neceſſities of mankinde; ſuch are, *To doe as we would be done to: To perform covenants: To ſecure meſſengers of peace and Arbitrators: To be thankful to our Benefactors*, and the like: without theſe a man cannot receive any good, nor be ſafe from evil.

6. By this relation, and interchanging reaſon, it is therefore neceſſary that theſe laws ſhould be diſtinguiſhed from all others, becauſe theſe and their like proceed from the *ſame principle*, are reſtrained by the *ſame penalties*, written in the *ſame tables*, have the *ſame neceſsity*, and doe ſuppoſe *ſomething ſuperadded*

to

to our nature; and therefore that these and their like are *natural*, and the *others are not*, must be by *relation to the subject matter.*

7. For in these cases and the like, when that which is *profitable* is made *just*, then that which is *natural* is made a *law*; that is, when the law tends to the same end whither nature tends, when the faculty or appetite is provided for by obedience to a law, then the law is called natural. For since all good and just laws are profitable, they are laws *Civil* or *Religious*, or *Natural* according as they serve the end of the *Commonwealth*, or of the *Religion*, or of *Nature*. This is evident in the Code of the *Mosaick* law, where all laws being established by God under the same Prince, could have no difference but by their subject matter; and when they did lie in one body, to separate one from the other by proper appellatives was not easy, but by their manner of doing benefit, and their material relations.

8. *To which we are inclined by nature*]

That which is usually called the law of Nature is of it self nothing else but *convenientia cum naturâ rationali*, a consonancy to natural *reason* and *being*. Some in drawing the Tables of the natural law, estimate those onely to be natural laws which are concerning appetites and actions common to man and beast. *Jus naturale est quod natura omnia animalia docuit*, said *Ulpian*. That is the law of nature which is by nature taught not onely to men, but even to beasts, for they also are under her power, L. 1 ff de justitia & jure.

——*Magnis agitant sub legibus ævum.*

The same definition is also given by *Aquinas*, and many Lawyers after *Justinian*, and almost all Divines after *Aquinas*; but *Laurentius Valla* will at no hand endure it, *Nam jus naturale dicere quod natura omnia animalia docuit, ridiculum*; it is ridiculous to affirm that to be the law of nature, which nature teaches to all living creatures; such as are, conjunction of sexes for conservation of the kinde, nursing and educating children, *abstinence from some certain mixtures and copulations*, abhorring the conjunction of some very near persons. Concerning which it is therefore certain, that though the matter of these laws is hugely agreeable to nature, and some of them are afterwards made into laws, and for their matter sake and early sanction are justly called *natural* (as I have otherwhere discoursed) yet they are made laws in nature onely *dispositivè*, that is, by nature they are made Candidates of laws, they are prepar'd by nature, but compleated by God in other ways then by our nature and creation. 1.2ae q. 104. art. 2. Elegant. l. 4. c. 4. See Great Exemplar.

9. The reason is, because that which is natural is one, but these laws admit variety; and amongst wise Nations in several cases have and have not obligation. The Religious, and the Priests, and wise men among the Persians did not account themselves bound by all these, as I shall discourse in the following numbers; and yet they were then to be reckoned amongst the wisest men in the world, because of their great Empire and Government, which, by reason of their great necessities and communications with mankinde, cannot be done without its proportion of wisdome. But if nature did make these into a law, that is, if it comes by creation, and from thence also the penalty and coercion is derived (for without these there is no law) then it were impossible the wise Persians should think it commendable to doe that which others called abominable, since in all those things in which they doe a thing which they call unlawful, they as other men felt an equal sharpness and pungency of conscience.

But

10. But that I may ſpeak cloſer to the particular, That a thing is common to men and beaſts is no indication of a law of nature, but onely of a common neceſſity, inſtinct, or inclination reſpectively. For they doe it without a law, and therefore ſo may we, unleſs ſomething elſe beſides nature makes it a law to us; for nature or natural deſire in them and us is the ſame, but this deſire is in them where a law cannot be, and therefore in us alſo it may be without a law. Beaſts doe all that they *can doe*, and *can love*, and are no more capable of law then of reaſon; and if they have inſtincts and inclinations, it is no otherwiſe then their appetites to meat, concerning which nature hath determined all, but without proper obligation: and all thoſe diſcourſes concerning the abſtinence of beaſts, their gratitude, their hoſpitality, their fidelity, their chaſtity and marriages, are juſt like the diſcourſes of thoſe that would make them reaſonable. More certain and true is that which was ſaid of old,

Ἰχθύσι μὲν γὰρ θηρσὶ, καὶ οἰωνοῖς πετεηνοῖς
Ἔδμεν ἀλλήλους, ἐπεὶ οὐ δίκη ἔστι μετ' αὐτοῖς,

Fiſhes and birds and beaſts eat one another, becauſe they have no juſtice or laws amongſt them, ſaid *Heſiod*; and the like is in *Homer*,

Ὡς γὰρ ἔστι λέουσι καὶ ἀνδράσιν ὅρκια πιστά.

I. 7.

and therefore although it is a good *popular argument* which is uſed againſt unnatural conjunctions which is in the Greek Epigram,

Δέρκεο τὴν ἀλόγων ζώων γένεσ, ἃ γὰρ ἐκείνων
Φύσις ἀπεμάξει θεσμια συζυγίης, &c.

L. 1. c. 78.

Abſtain from ſuch impurities, for the very beaſts preſerve their natural cuſtoms and conjunctions inviolate; yet this is an infinitely uncertain and fallacious way of eſtimating any particular laws of nature, becauſe it may as well be ſaid to be againſt the law of nature to be drunk, as to be inceſtuous, upon this account, becauſe Cows will drink no more then to quench their thirſt: and although in the law of *Moſes*, beaſts were put to death if they were inſtrumental in *beſtiality* or *murder*, yet this was *in pœnam Domini*, or a matter of dominion over beaſts; and the word *pœna* or puniſhment was improper and no otherwiſe to be underſtood then that of *Suidas* in his ſtory of *Nicon*; whoſe ſtatue when an envious perſon had whipp'd, to diſgrace his memory, becauſe in the Greek games he had won 1400. crowns, the ſtatue fell upon his head and cruſhed him to death. τὸν δὲ οἱ παῖδες ἐπεξίεσαν φόνου ὅτι τῇ εἰκόνι· καὶ οἱ Θάσιοι καθαπερ τῶν αὐτῷ τὴν νόμον τοῦ Δράκοντος Ἀθηναίου. His ſons accuſed the ſtatue as guilty of murder, and the *Thaſians* threw it into the Sea; for ſo was the law of *Draco* the Athenian, ὑπερορίζειν φονεύοντας καὶ τὰ ἄψυχα, to baniſh every thing that kill'd a man, though it were wood, ſtones, or hatchets as you may ſee in *Demoſthenes*. Theſe things were tragical deteſtations and emblematical proſecutions of the crime; but the men were wiſer then to beleeve it really a puniſhment to inanimate things. The ſame is true of beaſts in their proportion, whoſe cruelty, ſavageneſs, or violent revenges is not κακία, but οἱονεὶ κακία as *Origen* calls it, it is like pravity or wickedneſs.

Orat. contr. Ariſtocratem.

Contr. Celſum.

11. This thing is ſo much the more conſiderable, becauſe it is of uſe againſt the pretences and ſcruples of ſome perſons in things where they ought to be confident. S. *Hierom* ſays that beaſts when they are impregnated abſtain from coition till the production of their young, and that this they doe by the law of nature; now upon this account to impoſe a law upon mankinde to doe ſo too, is weak and dangerous. But yet not onely he[a], but *Origen*[b], S. *Ambroſe*[c], and *Sedulius*[d], doe argue to the ſame purpoſe upon that very ground; moſt weakly and dangerouſly expoſing married perſons to the greater dangers of forni-

[a] L. 1. contr. Jovin.
[b] Hom. 5. ſup. 19 Geneſ.
[c] L. 1. Comm. ſup. Luc. 1.
[d] In cap. 5 Eph.

fornication, and depriving them of all the endearments of ſociety, not conſidering that thoſe creatures, and thoſe men whoſe cuſtome was otherwiſe, or laws different, had *vagam libidinem*, or the evil remedy of Polygamy. Beaſts indeed are ſo ordered by nature, but without a law; as there is no law for Lions to eat fleſh, or Oxen graſs, but yet naturally they doe it. A beaſt may be cruel or luſtful, or monſtrous and prodigious in the ſatisfaction of his appetites; but not injurious, or the breaker of any ſanction, or laws of juſtice. There may be *damnum ſine injuria facientis datum*, ſays the law, and it is inſtanc'd in beaſts. *Neque enim poteſt animal injuriam feciſſe dici, quod ſenſu caret.* A beaſt that hath no ſenſe (that is, no reaſon) no ſenſe or perception of *lawful* or *unlawful* cannot be ſaid to doe an injury, and therefore is not capable of puniſhment, becauſe he is incapable of a law. So *Juſtin Martyr*, or who ever is the author of the Queſtions and anſwers plac'd in his works; Ὅτι φαυλότητι παράξεως ἁμαρτάνειν τὴν ἀλόγων τὰς φύσεις, ὅτι ἄλογοι. It is unreaſonable to exact of beaſts the obliquity of their actions, becauſe they have no reaſon; it is therefore as unreaſonable to make the law of nature to be ſomething common to them and us.

L. 1. ff. ii Quadrupes §. 3.

12. If it be replied, that the Lawyers and Philoſophers mean onely that theſe material inſtances which are common to them and us are the particulars of the law of Nature, and though they be not a law to them, yet the ſame things which they doe naturally, are natural to us, and a law beſides, that is, the natural law: Beſides that this is not uſually ſaid by them, we are then never the nearer to know what is the law of Nature by this deſcription of it, for all things which they and we doe are not pretended to be laws; as eating and ſleeping; and therefore by what meaſure any other thing ſhould be a law to us becauſe they and we doe it, is not ſignified by this definition, or any explication of it. Let us then try the other meaſures which are uſual.

Invited by conſent]

13. The conſent of Nations, that is, publick fame amongſt all or the wiſeſt Nations is a great ſignification of decency or undecency, and a probable indication of the law of nature.

Φήμη δ' ἥτις πάμπαν ἀπόλυται, λῶτινα πολλοὶ
Λαοὶ φημίζωσι———

It is not a vain noiſe when many Nations joyn their voices in the atteſtation or deteſtation of an action; and it looks as if it were deriv'd from ſome common principle, which ſeems either to be *Nature*, or *Contract*; and then as in the *firſt caſe* they are *reaſonable*, ſo in *the ſecond* they are directly *obligatory*. *Quod apud multos unum invenitur, non eſt erratum ſed traditum*, ſaid *Tertullian*: like that of *Heraclitus*, τὰ κοινῇ φαινόμενα πιστά, if it ſeems ſo to the communities of mankinde, it is genuine, and natural, and without illuſion.

De præſcript.

14. Now this is true up to many degrees of probability; and yet it is rather an index of a permiſſion of nature, then of a natural obligation; it tels us rather what *we may* doe, then what *we muſt*, it being more probable that *all nations will not conſent to an unnatural thing*, that is, will not doe violence to nature, then that *whatſoever they commonly act ſhould be a neceſſary law*, and the meaſures of nature, or the indication of her ſanctions; and yet it is ſtill more probable that *the conſent of Nations is more fit to be uſed as a corroberative* to a perſwaſion or a kinde of actions, then as the prime motive or introduction. Κεάπιζον παν-

τας

τας ἀνθρωπους φαινεσθαι συμφωνουντας τοις ῥηθησομενοις, said *Ariſtotle*; and *argumentum eſt veritatis aliquid omnibus videri*, ſaid *Seneca*; it is a great ſtrengthening and a powerful prevailing argument to have all men conſent to our opinions and propoſitions. But it is in many moral inſtances as it is in the univerſal opinion which all mankinde hath concerning jewels, where they conſent no man knows how, or why: And no man can give a rational account why ſo great value ſhould be ſet upon a Diamond, but becauſe it looks prettily and is laſting: and ſo there are in nature decencies and laſting proportions in moral inſtances between the conſcience and the action; but yet as there is no proper and effective uſefulneſs in Diamonds towards the life of man, ſo neither is there in many inſtances in which the conſent of mankinde is very general. And therefore this is very farre ſhort of a law, and is no certain token of a *permiſſive right of nature*, much leſs of *a law* or *obligation*. For,

15. 1. Whole Empires have been eſtabliſhed and United by violence, and have laws given to them, and they receiv'd them in purſuance of the Conquerors intereſt and their educations have been form'd accordingly. *Ninus* form'd the *Aſſyrian Monarchy*, and his ſon was flattered into the reputation of a God, and all the Nations under that Scepter conſented to the worſhip of *Belus*; and all the Nations with whom theſe men converſed, imitated the manners of the *Princeps populus*, and in their banquets, the moſt modeſt of their women uſed to ſtrip themſelves ſtark naked, and it was counted no undecency, but ſhe was rude and uncivil that did not.

16. 2. There are ſome Nations ſo wholly barbarous and bruitiſh in their manners, that from their conſent we can gather nothing but thorns and wild briers: They are the words of *Porphyry*, ἐξ ὧν ὁ φερσήκει τὰς συγνώμας τῇ ἀνθρωπίνης καλαψευδεσθαι φύσεως, from whom we muſt not learn to bely and abuſe the fair inclinations and ſentences of humane nature. And therefore if we goe to account by the conſent of Nations, we muſt thruſt out all wild, ſavage, barbarous, and untaught people, νόμων ἐθνικῶν ὄντων, ἐχὶ δὲ βαρβαρώδης· ὃ γὰρ τῷ ἔθνους ὄνομα νομικῶς εἰρημένον ἑλλήνων συλλήπτικόν ἐστι νόμοις ὑποκειμένων, ſaid *Michael Pſellus*. We muſt into the account of the law of Nations take them onely who are ſubject to Laws, the well manner'd people onely, but then this alſo will be an infinite uncertainty. For,

In Synopſi LI.

17. 3. All Nations to the Greeks were barbarous; to the Romans alſo all Nations but the Greeks and themſelves: and to the Jews all were Heathens, which to them ſignified the ſame thing or worſe.

18. 4. And then which are thoſe Nations whom we ſhall call *Moratiores*, wiſe and well manner'd people, for this will depend upon our own cuſtomes; if they be like our cuſtomes, our laws, and manners of living then we approve them, elſe we condemne them.

19. 5. But then let us remember alſo that civility and fair cuſtoms were but in a narrow circle, till the Greeks and Romans beat the world into better manners. *Ariſtotle* ſays, that in his time in the Kingdomes of *Pontus*, which were very near to Greece, divers Nations were eaters of mans fleſh, ſuch as were the *Achæans* and *Heniochans*, and divers amongſt the *Mediterraneans* were worſe then they.

Lib 8. Polit. c. 4.

6. The

20. 6. The greateſt part of the world were undiſcovered till this laſt age, and amongſt them the *Jus Gentium* was to ſacrifice one another to *Dæmons*; for all the old Navigations were by *Maritime* Towns, and the inlands either were left alone in their own wilder manners, or it is not known what civilities they had. So that the *Jus Gentium* muſt needs have been an uncertain thing, variable and by chance, growing by accidents, and introduc'd by violence, and therefore could not be the meaſure of the law of Nature.

21. 7. Adde to theſe that the ſeveral Nations of the world had cuſtomes of their own, which commencing upon uncertain principles, have been derived to their poſterity, and retained with a religious fancy; becoming natural and proportionable to their fancies and their fears, and they would rather die then doe an act of violence to them, and beleev'd it to be the greateſt impiety in the world to break them. *Herodotus* tells a full inſtance of this in a triall made by *Darius* to the Indians and Greeks. He ask'd the Greeks what they would take to doe as the Indians did who eat their dead Parents and friends and accounted it the moſt honourable burial; they anſwered, They would not doe at it any price. And when he as'kd the Indians upon what conditions they would be induc'd to burn the bodies of their Fathers, and not to eat them, they deſired him not to ſpeak to them of any ſuch horrid impiety as to burn their Fathers carcaſſes, and to deny to them the honour of a narural burial in the bowels of their dear children. ἔθος Δαίμων. Cuſtome is the *Genius* or ſpirit of a mans actions, and introduces a nature, a facility, a delight, and religion it ſelf. Καὶ γὰρ ὃ εἰθισμένον ὥσπερ πεφυκὸς ἤδη γίγνεται. ὅμοιον γάρ τι τὸ ἔθος τῇ φύσει· ἐγγὺς γὰρ τὸ πολλάκις τοῦ ἀεὶ, ἔστι δ' ἡ μὲν φύσις τοῦ ἀεί. τὸ δὲ ἔθος τοῦ πολλάκις. Cuſtome is as nature, and that to which we are accuſtomed is like that which we were born. *For that which is often is next to that which is always.* It is *nature* which is *always*, that is *cuſtome* which is *frequent*: It is poſſible that nature in many things ſhould be altered, and it is very difficult that cuſtome ſhould in any thing; we have ſeen and heard it in a great inſtance in a few ages laſt paſt. For when ſome of the reformed Doctors by their private authority did twice attempt it, and the Church of *Rome* did twelve times publickly endevour it, to get the Greeks to forſake the cuſtomes of their Churches, and to reform themſelves by their copy, they were all repulſed; and if the Greek Prelates ſhould take the people off from their old cuſtomes, beſides that the great Turk would doe them a miſchief for complying with the Weſtern Chriſtians his Enemies, the people themſelves would indanger all their Religion and turn Turks, if they once did learn that their old cuſtomes were not neceſſary Religion: and therefore they choſe to ſtick ſecure in their Religion though allayed with ſome errors, then for the purchace of a leſs neceſſary truth endanger the whole Religion by taking the people off from their *Jura Gentis*, the cuſtoms of their Nation.

In Thalia

Ariſt. Rhetor. l. 1. c. 11.

22. 8. Some Nations doe refuſe to admit of ſome of thoſe Laws which others call the laws of Nature, and ſuch which ineed were given to all the Nations of the world.

——————*Non fœdera legum*
Ulla colunt, placidas aut jura tenentia mentes.

Val. Flacc.

and excepting the care of children, to which by natural likeneſs and endearments we love to be oblig'd, and ſo leſs ſtand in need to be tied to it by a law, excepting this I ſay, to which beaſts alſo doe as well as we, ſome wiſe perſons have obſerv'd that in all things elſe we are at liberty, that is, naturally tied to no law.

L. 1. p. D. 47. Εἰ γάρ τις ἔξι κοινὸς ἀνθρώποις νόμος.
Καὶ θεοῖσι τᾶτο δόξαν, ὡς σαφῶς λέγειν,
Θηρσίν τε παῖσι τέκνα τίκτοντας φιλεῖν
Ταῦτ' ἄλλα χωρὶς χρώμεθ' ἀλλήλων, νόμοις.

But the inſtances will make greater indication of this any mans affirmative. The *Idumæans* are Theeves and Murderers, and will not beleeve that they doe amiſs: The manner of their Nation is to live very much upon robbery, and plundring Merchants: and in *Homers* time there was a Nation of Pirates: οὐκ ἄδοξον τῷ ὡδὶ τοῖς παλαιοῖς τὸ λῃστεύειν, ἀλλ' ἔνδοξον, ſaid the *Scholiaſt* upon *Homers* Odyſſes τ. They thought it no diſparagement to ſteal, but an honourable and a glorious thing; and it is worſe now, and hath been growing ſo ever ſince *Nimrods* time. Men account it lawful to kill and ſteal, if they doe it by Nations, by Companies, and Armies, and Navies: and *Cato* had reaſon to complain, *Fures privatorum furtorum in nervo atque in compedibus ætatem*
L. 11. cap. 18. *agunt, fures publici in auro atque in purpurâ*; and particularly *A. Gellius* tells of the Egyptians that they allow of theſts; and the wiſer Lacedemonians, a ſober and a ſevere people, taught their young men to ſteal without covetouſneſs; ſo they pretended, not to enrich themſelves, but to incourage them to fight the
L. 3. c. 8. better by plundring well. *Pomponius Mela* tells of the *Augitæ*, a Nation in *Africa* whoſe cuſtome it was that every bride ſhould be proſtitute to all commers the firſt night, and ſhe who had entertain'd moſt, was moſt honoured: and
C. p. 43. *Solinus* tells of the *Garamantici* that they know no marriages, and therefore children only own their Mothers, for they can hardly gueſs at their Fathers; and indeed the old world did doe ſuch vile things, contracted ſuch baſe cuſtomes, ſo delighted in wickedneſs, that as they highly provoked God to anger, ſo they left it impoſſible to judge of the laws of nature by the conſent of Nations. *Propertius* complains ſeverely of this popular impiety.

L. 1. Eleg. 1. *Sed poſtquam tellus ſcelere eſt imbuta nefando,*
Juſtitiámque omnes cupidâ de mente fugarunt,
Perſudère manus fraterno ſanguine fratres,
Deſtitit extinctos natus lugere Parentes,
Optavit genitor primæ vi funera nati,
Liber ut innuptæ potiretur flore Novercæ:
Ignaro mater ſubſternens ſe impia nato,
Impia non verita eſt Divos ſcelerare penates,
Omnia fanda, nefanda malo permiſta furore
Juſtificam nobis mentem avertêre Deorum.

" The whole earth grew ſo impure and degenerous, that they drave juſtice from " them as their Enemy; brothers waſh'd their hands in their brothers bloud; the " ſons mourn'd not at their Fathers funeral; and the Father wiſh'd the death of " his eldeſt ſon, that he might lie with his ſons wife; the Mothers would ſteal " ſecretly into the embraces of their ſons; and they feared not to break the " laws of Hoſpitality, or Cuſtome, or Nature, or of Societies. Now from hence it will be impoſſible to derive our cuſtomes, and ſo to ſuppoſe them to be laws of Nature, which are openly deſtructice of juſtice. And upon this laſt inſtance it appears that the ſaying of *Polybius* will be of no uſe to us in this queſtion; δεῖ δ' σκοπεῖν ἐν τοῖς κατὰ φύσιν ἔχουσι μᾶλλον τὸ φύσει, καὶ μὴ ἐν τοῖς διεφθαρμένοις· That *for the laws of Nature we muſt ſeek amongſt them that live according to nature, not amongſt them whoſe natures are deprav'd by cuſtome*; ſince as *Andronicus* of *Rhodes* was wont to ſay, *He lies not that ſays honey is ſweet, though a ſick man refuſes it as bitter and unpleaſant*; ſo is the law of Nature perfect and immutable in thoſe Nations who are endued with a ſound mince and a ſober

juge-

judgement. This indeed is true, but how this can be reduc'd to practice, will be found inexplicable, and the thing it self impossible: since the *Lacedæmonians* the wisest and severest amongst all Commonweaiths permitted such natural injustices, and would breed children upon their own wives by strangers that they might have a good and a handsome breed.

23. 9. Some Tyrants have made Laws to serve their lusts, or their necessities, and these things have come into Customes, and Laws of Nations, and sometimes have been suppressed, or spent in desuetude. It was the case of *Seleucus*, who in the necessity of his son *Antiochus* gave him his own wife, and made it a Law for the future, which thing either was instantly disgrac'd and rejected, or else S. *Paul* had not heard, or had not taken notice of; for he thought it such a fornication as was not so much as named amongst the Gentiles that one should have his Fathers wife: indeed it was not named *inter cordatiores*, or those with whom he had conversed; but in *Syria* and in the *Pontick* Kingdome before his time, it had been named and practiced and pass'd into a Law; and yet that Kingdome consisted of two and twenty Nations of distinct languages. There was another instance like it spoken of by *Cicero*, that a woman married her daughters husband, which exactly was the same undecency and incestuous approach. *Nubit genero Socrus, auspicibus nullis, nullis authoribus, funestis ominibus. O mulieris scelus incredibile & præter hanc unam in omni vita inauditum.* Something like S. *Pauls* ἵνα μὴ δὲ ὀνομάζεται, but yet sometimes it was done, and not onely before his time, but long after this monition also, as it was in the case of *Antonius Caracalla: Matrem duxit Uxorem; ad parricidium junxit incestum:* So *Spartianus*. Now concerning these things, how can any man from hence take an estimate of the law of Nature; for this cannot be of the law of Nature which hath in it so unreasonable and unnatural complications; and yet by what rule shall we judge of natures Law, since the wisest persons, even *Socrates* and *Cato* did such things which they thought fit, and we call unreasonable, for they gave their wives to their friends, as a man lends his beast for his neighbours use.

Appian. de Bel. Syr.

Cic. pro Cluent.

24. 10. There are some Nations so used to a rude unmannerly pride and fierceness, that all civility seems softness and effeminacy. To this purpose is that which *Tacitus* reports of the son of *Phraates* the *Parthian*, who being bred up with *Tiberius* and efform'd into the Romane civilities was by the Prince his friend sent to the Kingdome of *Parthia*; but in the young Gentleman there were presently observed easiness of access, a fair civil deportment and affability; *obvia comitas:* But these virtues being unknown to the *Parthians* were *nova vitia*; and because they were unknown to their Ancestors, *perinde odium pravis & honestis*, the good and the bad amongst them did equally detest them.

25. 11. Some Nations have left their good Customes and taken up bad, and have chang'd their natural reason into unnatural follies, and the basest sins have been very general; and when God warned the Jews to take heed of the manners of their neighbour Nations, he enumerates vile lusts which were the national customs for which God affirms that he ejected them from their habitations.

26. 12. Lastly, there is no consent among Nations in their Customes, nor ever was until a higher principle made a law and tied it on with penalties; such as were conquest, necessity, contract, reputation, decrees of Princes, or the laws of God, or of a Religion. νόμος καὶ δίκη ἄνω καὶ κάτω φέρεται ἀκατωμύλια καὶ ἀκαταμύλια,

Maxim. Tyr. Dissert. 1.

ρα ασόμφωνα, and neither Nation with Nation, nor Man with Man, nor a Man with himself does long agree.

27. Indeed there are some propositions which all the world agrees upon, such as are, the immortality of the soul, and that there is a God. Ταῦτα ὁ Ἕλλην λέγει, καὶ ὁ βάρβαρος λέγει, καὶ ὁ ἠπειρώτης, καὶ ὁ θαλάττιος, καὶ ὁ σοφὸς, καὶ ὁ ἄσοφος· *The Greek and the Barbarian, the Epirot and the Maritime, the wise and the unwise agree in the beleef and profession of a God:* but when these things come to manners and customes, they differ infinitely; and as they anciently chose several gods, so they did not agree in the manner of worshipping their gods; some they worshipped by praises, and some by railing, some by giving sacrifice, some by throwing stones; and so it was in other things. Some were observant of their Parents, and some knock'd them on the head with clubs when they came to a certain age, as is to be seen in *Ælian*; and even in the taking care and educating their children, in which nature seems most to have made a law, and signified it with the consent of Nations, yet even in this also there was variety, and no universal law naturally established. For some nursed their children, and some did not; sometimes they were left to their Mothers without any provision made by their Fathers; sometimes the Fathers took them from their Mothers, but however, yet this cannot be properly derived from a *Jus Gentium*, for if it be a right or a law at all, it is a *lex singulorum*, it belongs to single persons and to families, and is common to man and beast, and hath a necessity in nature, as it is necessary to eat or sleep, and is as necessary to families as the other are to single persons, but where there is a necessity, there needs no law, and cannot properly be any.

28. From all which I conclude that the *Jus Gentium*, the law of Nations is no indication of the law of Nature; neither indeed is there any *Jus Gentium* collectively at all, but onely the distinct laws of several Nations; and therefore it is to be taken distributively; for they are united onely by contract, or imitation, by fear, or neighbourhood, or necessity, or any other accident which I have mentioned. And in those things in which they have agreed tacitely, or expresly, they have no obligation but what they bring upon themselves, as penalties, forfeitures, obloquies, and the like; which they as easily shake off when they have power, and when it is for their profit; and we see it in those who have killed Heralds or Ministers of peace and of Religion; which we say commonly is against the law of Nations; that is, it is against the custome of them, because to doe so is to no purpose, a spleenish ineffective malice; and therefore although of no usefulness, and consequently seldome done, yet it hath been sometimes, and no punishment follows, and therefore it is no law.

See the preface to the Great Exemplar. n. 23.

29. Now that this opinion may not wholly seem new, I finde something of it affirmed by *Constantinus Harmenopulus*, ἐθνικὸς δὲ νόμος ἐστὶν ὃν πλείονα ἔθνη, ἢ ἕν ἔθνη χρῶνταί τινα· The law of Nations is that which one or more Nations use; and he instances in not marrying their neareſt kinred, amongst the Greeks and *Sauræ* [*Sarmatæ* (I suppose)] or else to marry them as the *Persians* use. But this onely, where it happens that Nations doe consent in great proportions, it confirms our assent to the law, and publishes its being natural, in case that of it self it be so.

Lib. 1. tit. 1. Prochir.

Prompted by reason.]

30. *Cicero* defines the law of Nature to be, *Vera ratio naturæ congruens, diffusa in omnes, constans, sempiterna:* That right reason which is consonant to nature, which

Lib. de Repub.

which is in every one always and the ſame, that is the law of Nature: So he, and from him *Lactantius*; but that is not exactly true. Right reaſon is the inſtrument of uſing the law of Nature, and is that by which together with the Conſcience (which is alſo reaſon) we are determined to a choice and proſecution of it our ſelves, or to a willingneſs of obeying the obliging power. τὸν θεῖον νόμον ὑποδέχεται λογισμὸς, καὶ δικαστὴς ἄγρυπνος γίνεται· Reaſon entertains the Divine laws (of nature) and ſo is made a moſt vigilant Judge, ſaid *Hierocles*. This is that which diſtinguiſhes us from beaſts, and makes us capable of Laws.

——Separat hæc nos
A grege mutorum, atque ideo venerabile ſoli
Sortiti ingenium, divinorúmque capaces,
Atque exercendis, capiendíſque artibus apti,
Senſum à cæleſti demiſſum traximus arce.

Juven. Sat. 15.

* But reaſon is not the law, or its meaſure; neither can any man be ſure, that any thing is a law of Nature, becauſe it ſeems to him hugely reaſonable, neither if it be ſo indeed, is it therefore a law. For it is very reaſonable that every man ſhould chooſe his own wife, becauſe his intereſt is the greateſt: * That every man ſhould ſuffer as much evil as he does; * That a man be not puniſhed for evils that he cannot help; * That every man ſhould ſuffer for his own fault, and no man for the fault of another; and yet theſe are not laws in all places where they are reaſonable. *Pythagoras* in *Laertius* ſaid that which was very reaſonable. *Plantæ manſuetæ non nocendum, veluti neque animali quod non noceat hominibus.* A man may not hurt a gentle and a ſweet plant, much leſs, a harmleſs and a profitable beaſt. Truly, it is unreaſonable a man ſhould, but if he does, he breaks no law by the meer doing ſuch an action. For reaſon can demonſtrate, and it can perſwade and invite, but not compel any thing but *aſſent*, not *obedience*, and therefore it is *no law*.

31. But beſides this, Reaſon is ſuch a boxe of Quickſilver that it abides no where; it dwells in no ſetled manſion; it is like a doves neck, or a changeable Taffata; it looks to me otherwiſe then to you who doe not ſtand in the ſame light that I doe: and if we inquire after the law of Nature by the rules of our reaſon, we ſhall be uncertain as the diſcourſes of the people, or the dreams of diſturbed fancies. For ſome having (as *Lucian* calls it) weighed reaſons in a pair of ſcales thought them ſo even, that they concluded no truth to be in the reaſonings of men; or if there be, they knew not on which ſide it ſtood, and then it is, as if it were not at all; theſe were the *Scepticks:* and when *Varro* reckoned two hundred eighty eight opinions concerning the cheefeſt good or end of mankinde, that were entertained by the wiſeſt and moſt learned part of mankinde, it is not likely that theſe wiſe men ſhould any more agree about the intricate ways and turnings that lead thither, when they ſo little could agree about the journeys end, which all agreed could have in it no variety, but muſt be one, and ought to ſtand fair in the eyes of all men, and to invite the induſtry of all mankinde to the purſuit of it.

32. And it is certain, that the baſeſt of things have been by ſome men thought ſo reaſonable, that they really choſe it, and propounded it to others. And this is the leſs wonder, when we conſider that in defiance of all the conſenting reaſons, and faith of all the Nations of the world, ſome few ſingle perſons,

wittier then folly, but not ſo wiſe as Reaſon or religion ſhould ſay that there is no God: ſuch were *Diagoras Mileſius*, *Theodorus Cyrenaicus*, *Protagoras*; and it is thought, *Lucian* alſo: But they that think ſo, muſt alſo conſequently beleeve that nothing is diſhoneſt that they can doe in private, or with impunity. * Some have beleeved that there is nothing in it ſelfe juſt, but what is profitable: So did *Carneades* (whom I before noted out of *Lactantius*) and ſo did *Ariſtippus*.

33. Now here it is not ſufficient to ſay, that in this inqueſt after the law of nature by the proportions of reaſon, we muſt exclude all unreaſonable, bruitiſh, and monſtrous perſons. For firſt the queſtion will returne, who thoſe are which are unreaſonable, and we are not to reject the opinion upon pretence it is unreaſonable, unleſs we firſt know ſome certain meaſures of reaſon: Now we cannot take our meaſures of *reaſon from Nature*; or if we doe we cannot take the *meaſures of Nature from reaſon*, that is, if we call men unreaſonable becauſe they ſpeak *Unnatural* things, then it muſt be certain that what is *natural* or *unnatural* is known ſome other way then by the proportions of reaſon; for the reaſon being miſliked for its diſproportion to *Nature*, the laws of nature muſt be foreknown, and therefore are not to be proved by that which comes after: beſides this (I ſay) the wiſeſt of Men in their profeſſion, and ſuch as were no fools in their perſons, ſo far as can appear by all their other diſcourſes, have beleeved the worſt of crimes to be innocent, and to have in them no natural diſhoneſty. *Theodorus* allowed of *Sacrilege*, and ſo do thouſands who at this day call themſelves Chriſtians: *Plato* allowed adultery, and community of wives; ſo did *Socrates* and *Cato*. *Zeno* and *Chryſippus* approved of inceſt, and ſo did the Perſians: So that we may well ſay as *Socrates* to *Phædon*; when we hear the name of *Silver* or *Iron* all men that ſpeak the ſame language underſtand the ſame thing: but when we ſpeak of *good* and *evil*, we are diſtracted into various apprehenſions and differ from each other and from our ſelves: we ſay as *Pilate* ſaid of truth, *What is truth?* we cannot tell what is true and what is good and what is evil; and every man makes his own opinions to be laws of nature, if his perſuaſion be ſtrong and violent. *Tertullian* complain'd that the old Philoſophers did ſo: *leges naturæ opiniones ſuas facit* [*Philoſophia.*] And yet it is without all peradventure that all lawes which are commonly called *Natural* are moſt *reaſonable*, they are perfective of Nature, unitive of Societies, neceſſary to common life, and therefore moſt agreeable to reaſon. But if you make an ἀνάλυσις of theſe, and reckon backward, you cannot wiſely and demonſtratively reckon from reaſon, or conſent or natural inclinations up to natural laws.

Lib. de anima cap. 2.

But the laſt clauſe of the Rule finiſhes this whole queſtion,

[*Bound upon us by the Command of God*]

34. For when God made man a free agent, he by nature gave him power to do all that he could deſire: and all that is *Jus naturale*, a natural right or power: and it needs no inſtances; for it is every thing he could deſire in *eating* and *drinking* and *pleaſures* and *rule* and *poſſeſſion:* but the law was ſuperinduc'd upon this. *Right is liberty*, but *law is a fetter*; Nature is free to every thing which it naturally deſires τὸ ἐλεύθερον τὸ μηδενὸς ὑπήκοον ἀλλὰ πράτειν ἁπλῶς τὰ δοκοῦντα αὐτῷ ſaid *Dio Chryſoſtomus:* That's the right of nature, to be free, to be ſubject to no law, to do abſolutely whatſoever pleaſes

Pleaſes us. This is φυσικὴ εὐχέρεια (as the law callsit) συγχωρῆσα πράτ[illegible]ειν ἃ βέλεζαι. A natural liberty permitting us to do what we liſt, *Libertati proprium eſt ſic vivere ut velis*, ſaid *Cicero* de Offic. lib. 1. It is not liberty unleſs you live as you pleaſe: but ſervitude is not by nature, therefore liberty is. *l.* 5. *D. de ſtatu hominum. Inſtit. de jure perſonarum* §. *& libertas.* For where nanature hath an appetite, and proper tendency, it cannot deny to it ſelf ſatisfaction; whatſoever therefore is a law and a reſtraint to it, muſt needs be ſuperinduc'd upon it: which nature her ſelf cannot be ſuppoſed to be willing to doe; and nothing had power to doe but God onely who is the Lord of Nature.

——————Κερίων
Ανθρώποισι δ' ἔδωκε δίκλω ἢ πολλὸν ἀρίστη.

It was God that gave juſtice to Mankinde: he made juſtice by his ſanction: This was expreſſely the ſentence of *Cicero* ſpeaking of the law of nature: *Eſt recta ratio à Numine Deorum tracta, imperans honeſta & prohibens contraria.* and again, *Lex vera atq; princeps apta ad jubendum & ad vitandum ratio eſt recta ſummi Jovis.* The law of nature is a tranſcript of the wiſdome and will of God written in the tables of our minds, not an ἔυρημα διὰ χρόνου, a product of experience, but written with the finger of God, firſt in the tables of our hearts. But thoſe tables we like *Moſes* brake with letting them fall out of our hands, upon occaſion of the evil manners of the world: but God wrought them again for us, as he did for *Moſes* by his ſpirit, in all the ages of the world, more or leſs, by arts of inſtruction and ſecret inſinuation, by all the waies proportioned to a reaſonable nature; till from an *inclination* it came to a *firme perſuaſion* and ſo to a *law:* God, in this, ruling in our hearts ſomthing after the manner by which he reigns in heaven, even by ſignifications of what is fit, by inſpirations and congenite notices, by natural neceſſities: but this thing was yet no law till God alſo had ſignifi'd it to Men, after the manner of men, that is, by diſcourſe and humane Communications, by ſomething that taught them, and obliged them.

35. The ſenſe of this is, that *religion* is the firſt and greateſt bond of laws, and neceſſity is the next: For though many times it prevails more then religion, yet it is not alwaies incumbent, and that which is neceſſary to ſociety, is inconvenient in ſome caſes, and when *power* comes in, and *need* goes out, there is nothing which can make or continue the law: and it were impoſſible that all the world ſhould acknowledge any lawgiver but God; for nothing elſe could be greater then all mankind, nor be truſted in all caſes, nor fear'd but he alone. And therefore the heathen Princes when they gave their lawes, gave them in the Name of a Deity. So *Numa*, *Lycurgus*, and others; which was not a deſigne to ſcare fools and credulous people, but in ſome inſtances (excepting onely that they nam'd a falſe God) was a real truth; that is, in all thoſe things which commanded natural juſtice, honeſty and decencies: for theſe were really the lawes of the true God.

36. For the law of Nature is nothing but the law of God given to Mankinde for the conſervation of his Nature and the promotion of his perfective end. A law of which a man ſees a reaſon and feels a neceſſity: *God* is the lawgiver. *Practical reaſon* or *conſcience is the record*, but *revelation* and expreſſe declaring it, was the firſt *publication* and emiſſion of it, and till then it had not all the ſolemnities of law, though it was paſs'd in the Court, and decreed and recorded.

37. And this is the perfect meaning of those words of S. *Paul* [*but for the law I had not known sin*] that is, although by natural reason and the customes of the world I had or might have reasons to dislike many actions; yet till the law declar'd it I could not call any thing a sin, and if S. *Paul* could not, neither could the Gentiles: their Nature was alike, and S. *Paul* had advantage in education, and yet his nature could not instruct him in the Names and differences of good and evil; therefore neither could the Gentiles know it meerly by Nature. But yet a man may *become a law unto himself*: So S. *Paul observes* of the Gentiles who *not having a law doe by Nature the things contain'd in the law, and so become a law unto themselves.* So does every man who beleeves any thing to be necessary, though it be not so; yet *he becomes a law to himself*, because by his conscience and persuasion he makes to himself a law or obligation: much more might the Gentiles do so; in whose Nature the aptnesses to justice and disposition to laws were concreated with their understandings. Well might they *become a law unto themselves* in these natural instances; for if opinion can make a law to our selves in an unlawful matter, much more may it doe so in a matter that is so agreeable to our Nature, so fitting, so useful, so prepared to become a law, that it wants onely the life of authority, sanction and publication: but though the Gentiles became a law unto themselves, by this means: yet their Natural reason was not yet fram'd into a law, till Gods authority, either by his expres declaration, or by the conscience of the man, that is, *directly* or *indirectly* did intervene: *testimonium reddente conscientia*, so S. *Paul*, *their conscience bearing witness*: for either God published these lawes by expres declaration and voices, or else by imprinting upon the Conscience such fears and opinions that pass'd upon the man the reverence and obligation of Lawes. In both these there was variety: though in the latter there was amongst the better sort of men a more regular and universal influence and effect: and although it is very probable that all the measures of justice and natural lawes of honesty were expresly published to the Patriarchs of the great families of the world, yet when some of the posterity lost their tradition, these laws were maintain'd by more imperfect relations, and kept up by fears and secret opinions which the spirit of God who is never wanting to men in things necessary, was pleas'd in his love to Mankinde to put into the hearts of men, that men might be governed by instruments which would not fail.

38. Thus S. *Hierome* [a] affirmes that *Pharaoh* knew his sins by the law of Nature: and of this it was that *Tertullian* [b] affirmed; *ante legem Moysi scriptam in tabulis lapideis, legem fuisse contendo non scriptam, quæ naturaliter intelligebatur & a patribus custodiebatur: Nam unde* Noë *justus inventus est si non illum naturalis legis justitia præcedebat? Unde* Abraam *amicus Dei deputatus, si non de æquitate & justitia legis hujus Naturalis?* by this the Fathers liv'd, by this *Noah* was *found just*, and *Abraham the friend of God*: for this though not written in Tables of stone, yet it was written in the tables of their hearts; that is, it was by God so imprinted in their Consciences that they were by it sufficiently instructed how to walk and please God; and this is that which was said by *Antigonus* in *Sophocles*, and which *Apollonius* did use against the edict of *Nero*.

[a] Epist. 151. ad Algas. q. 8.
[b] Adv. Judæos c. 2.

Οὐ γάρ τί μοι Ζεὺς ἦν ὁ κηρύξας τάδε,
Οὐδ' ἡ ξυνοικὸς τῶν κάτω θεῶν δίκη,
Οἵ τὸν δ' ἐν ἀνθρώποισιν ὥρισαν νόμον.
Οὐδὲ δέναν τοσοῦτον ὠόμην τὰ σὰ
Κηρύγμαθ' ὡς τἄγραπτα κ' ἀσφαλῆ θεῶν

Νόμιμα

Νομμα δωιαδαι ἀνθρ ουθ' υπ' ἐδαμειν.
Οὐ γὰ τι νῦν τε κὰχθὲς ἀλλ' ἀιεὶ ποτε
Ζῆ ζαῦτα, κὰδεὶς οἶδεν ὁξ ὁτυ φαιν.

"This is a thing which neither heaven not hell hath taught by any new or ex-
"preſs ſanction: For God hath given us other laws. But never did I think
"that thy commands could ever prevail ſo, that it could be poſſible that thou
"being a mortal man ſhould prevaricate the unwritten and potent laws of
"God. For theſe laws are not of to day or yeſterday, but they are eternal, and
"their principle is ſecret, and from within.

39. And therefore *Philo* ſaies, the law of nature is *a law* ὑπ' ἀθανάτυ φύ-σεως ἐν ἀθανάτῳ διανοίᾳ τυπωθεὶς *engraven in an immortal Underſtanding by an immortal nature.* In this whole affair, God is as the Sun, and the Conſcience as the Eye: or elſe God or ſome Angel from him being the *intellectus agens* did informe our reaſon, ſupplying the place of Natural faculties and being a continuall *Monitor* (as the Jews generally beleeve, and ſome Chriſtians, eſpecially about three or four ages ſince:) which *Adam de Mariſco* was wont to call *Helias his Crow:* ſomething flying from heaven with proviſions for our needs. And the *Gloſs.* and *Gulielmus Pariſienſis*, and before them *Maimonides*, from whom I ſuppoſe they had it, affirme this to be the meaning of *David* in the fourth Pſalme, *Offer the ſacrifice of righteouſneſs*; it follows, *Quis monſtrabit? Who will ſhew us any good?* who will tell us what is juſtice, and declare the meaſures of good and evil? He anſwers, *Signatum eſt ſuper nos lumen vultûs tui Domine*, thou haſt conſign'd the light of thy Countenance upon us, *ut ſcilicet* (as it is in another Pſalme) *in lumine tuo videamus lumen, that in thy light we may ſee light.*

40. The effect of all which is this onely, That God is our lawgiver, and hath made our hearts to be the Tables of the laws of nature, that they might alwaies be there under our eye, legible and clear. It is not a law for being plac'd there; but God firſt made or decreed it to be a law, and then plac'd it there for uſe, and promulgation: and although very many men, and nations had no entercourſe with God as a lawgiver but what they have by the means of their conſcience, that is, they never heard God ſpeak, had no prophets, no revelation, and have forgot the tradition of their fathers; yet when God by ways undiſcernible hath written a propoſition there, and that the Man does beleeve any thing to be good or evil: it is true that God is his lawgiver, becauſe he onely is Lord of his Conſcience: but it is alſo true: that *he becomes a law unto himſelfe*: that is, he becomes oblig'd to God by the act of his own conſcience; and however it be that his conſcience be wrought upon, though by a fancy or a fear, a ſad ſight, or a caſuall diſcourſe, if it works the conſcience into the notice and obedience of a natural law, the meaner the inſtrument is, the greater is the efficacy of the principal agent. The putting it into the conſcience is a ſufficient promulgation of the law, however that be done; but nature alone never does it: The expreſs voice of God, tradition, prophets, contract, providence, education and all ſorts of influence from God, and entercourſe with man have their portion in this effect. And when wiſe men ſay, *this is naturally underſtood*; it muſt mean thus, naturally men find it reaſonable, but not naturally to be a law: naturally they *conſent* to it, but not *naturally* find it out, or naturally we may be *inſtructed* but not naturally *bound*: but when God changes *ſcience* into *conſcience*, then he makes that which is *reaſonable* to *become a law.*

Bus

41. But first or last, this way or another, it became a law onely by the authority and proper sanction of God; God is the author of our Nature and made a law fit for it, and sent the principles of that law together with it, not that whatsoever is in nature or reason is therefore a law because it is reasonable or because it is natural: but that God took so much of prime reason as would make us good and happy, and established it into a law; which became and was called the law of Nature both because 1. These laws are *in Materia Naturali*: that is, concerning the good which refers to the prime necessities of Nature; and also because 2. being Divine in respect of the authour, the principles of this law are natural in respect of the time of their institution being together with our nature: though they were drawn out by God severally in several periods of the world, who made them laws actually by his command, which in nature are so onely by disposition.

42. This latter reason is given by *Alphonsus à Castro* and by *Wesenbech*: the former is insinuated by *Mynsinger* defining the law of Nature to be *quod natura, adeoque Deus ipse omnes homines in Creatione, prima quædam præcepta & formulas honestatis docuit.* But the latter of them I say is true onely of such as are the *prime laws* or rather *rules of nature*, and the general measures of vertue and vice. But as for the *particular laws of Nature* (which onely are properly to be call'd laws) we are to look for no other systeme or collective body of them, but the expresse declared laws of God which concerne morality, that is, all that are given to all Mankinde without relation to any one period, such is the moral law of the Jewes: and such is the religion of the Christians; that less perfect, this more perfect and intire: for these in their several proportions are such which are generally for all mankind; and upon this account it is affirm'd
Dist. 1. in princ. by *Gratian*, *Jus naturale esse, quod in lege & Evangelio continetur*, The law of Nature is that which is contain'd in the Law, and the Gospel: which saying he had from *Isidore*.

43. It is necessary that this be rightly understood, because it establishes many certainties in the matter of Conscience, and eases us of the trouble of finding out a particular systeme of Natural laws, the inquiry after which hath caused many disputes in the world, and produc'd no certainty, It is all εὕρημα καὶ δῶρον θεοῦ, νόμος καὶ λόγος, ὀρθὸς λόγος, Διὸς διανομή, as the Platonists call it, νόμος τῆ διανομῆ, the word of God is the law, a right rule or sentence, and divine law, a law that is the distribution of the mind of God; and under this come all the precepts of Christianity: which was well summ'd up by him who gave this account of the religion, and the religious that are of it, saying they are *homines conspirantes in communem utilitatem*; and that they mutually make and give σύμβολα πρὸς τοῦτο μὴ ἀδικεῖν εἰς ὃ μὴ βλάπτειν ἀλλήλους, μηδὲ βλάπτεσθαι, Symbols and Sacraments to each other, that none shall doe or receive injury: men conspiring for the good of others: or as the Romane souldier was told, They are men whose profession is to doe hurt to no man, and to do good to every man: and this is the integral designe of the law of Nature so far as it can relate to humane entercourse.

44. Νόμος καὶ λόγος. So Christ is called by S. *Peter* and the Greek Fathers, he is the *word of the Father* and *the law*; and it is remarkable, this word or law of the Father was the instrument of teaching mankind in all periods of the world. He taught the law of Nature to all men, and renew'd it, and made several manifestations and manners, and at last appear'd in the forme of

a

a man, and made a perfect body of it to last as long as our nature lasts, and as long as this world, and his kingdome abides. When God spake to *Adam*, to the Patriarchs, to the Prophets, still he spake by Christ, who was the Angel of the old Testament, and the Mediator of the New. He is therefore *Verbum Patris*; by him he signified his laws and righteous commandements, and the law was given ἐν χερὶ μεσίτου, *in the hands*, that is, by the ministery, *of the Mediator, who is one: that is Jesus Christ*; and this *Tertullian* affirmes. *Christus semper egit in Dei Patris Nomine. Ipse ab initio conversatus est, & congressus cum Patriarchis & Prophetis:* and again, *Christus ad colloquia semper descendit, ab* Adam *usque ad Patriarchas & Prophetas, in visione, in somno, in speculo, in ænigmate, ordinem suum præstruens ab initio semper: & Deus internis cum hominibus conversatus est; non alius quàm sermo qui caro erat futurus.* Christ in all ages spake to Men in the person of his Father, being from the beginning the word of the Father, which was to be incarnate. The same also is to be read in *Justin Martyr* against *Tryphon* the Jew. "Christ therefore was the preacher of this righte-"ousnes, and at last revealed all his Fathers will, which should ne-"ver receive any further addition, diminution or alteration. The *Novellæ constitutiones*, the inlargements and explications made by our Blessed Lord, together with the repetition of the old, that is, *the Christian law*, is the perfect Code and Digest of the Natural law. For they all rely upon the fundamental relations between God and us, and the natural entercourse betwen Man and Man, and the Original necessities and perfective appetites of our own Nature.

Adv. Marcion. lib. 2. Adv. Praxeam.

45. But here it will be necessary to clear that great objection which will be pretended against this doctrine. For since Christian religion is new in respect of Nature, and superinduc'd some things upon Nature, and rescinded some of her rights, and restrain'd her liberty; it will seem impossible that Christian religion should be a collected body of the laws of Nature; because the law of Nature is prime and eternal; which Christian religion seems not to be: Now to this I answer

46. 1. That it is evident that all that which any men call the laws of Nature is actually conteined in the books of the new Testament. S. *Austin*, *Hugo de S. Victore*, and *Alexander* say the law of Nature hath but these two precepts, 1 Doe as you will be done to; and 2 Doe not that which you would not have done to your self: *Isidore* reckons into the laws of Nature, 1 Conjunction of male and female, 2 Education and 3 Succession of children; 4 Common possessions and 5 Common liberty, and 6 Acquisition of things in air, earth, and sea: 7 Restoring the thing that is intrusted, 8 Repelling force by force. These are rights of Nature, and natural states or actions, but not laws. There are some laws concerning these things, but they also are in the New Testament. *Cicero* reckon'd, 1 Religion, 2 Piety, 3 Thankfulnes, 4 Vindication of injuries, 5 Observance of Superiors, 6 To speak truth. The lawyers reckon otherwise. The laws of Nature are these, 1 To worship God, 2 To live honestly, 3 To obey superiors; Kings, Parents, &c. 4 To hurt no man, 5 To give every one their own, 6 Common use of things as far as it may be; and where it may not, then 7 Dominion and 8 Propriety enter, 9 To take away evil doers from among men. And if we observe but the precepts of Nature (for they had no other light which we know of) which are reckoned by *Hesiod*, *Pythagoras*, *Theognis*, *Phocylides*, *Epictetus*, *Cato*, *Publianus*, and *Seneca*, we shall finde that they reckon many minute counsels

counſels which are deriv'd from naturall Principles, but yet ſtand far off of from the fountain: and ſome which they derivefrom t he *rights* of Nature, not from her *laws*, but indeed are directly contrary.

——————*Semper tibi proximus eſto.*

So *Cato*, and

Qui ſimulat verbis, nec corde eſt fidus amicus;
Tu quoque fac ſimules, ſic ars deluditur arte.

And that of *Cicero*, *vindicationem eſſe honeſtam*, revenge is juſtice. By their own reaſon men took their aim at the precepts and laws of Nature, but their reaſon being imperfect and abuſed it was not likely they could be exact: none but the wiſedome of the Father could doe it perfectly. Thus they can never agree in their enumeration of the Natural laws: But it is certain that ſo many of theſe as are laws, and bound upon us by God, are ſet down in the Scriptures of the New Teſtament. For it is not a law of Nature unleſs God have commanded it to us in or by or with Nature and natural reaſon. Now it is certain that Chriſt told us all his fathers will: and the Apoſtles taught all that to the Church which Chriſt taught to them: and therefore what is not in their doctrine is not in natures law, that is, it is no part of the law of God: and if it be certain that he that lives according to the law of Chriſt does pleaſe God and doe all his duty; then it follows that either there is no ſuch thing as that which we call the law of Nature, and no obligation from thence, and no meaſures of good and evil there; or if there be, it is alſo part of the Chriſtian mans duty, and expreſs'd and taught by the Maſter and Lord of the Chriſtians. All that is eſſentially good, is there; all that by which the World can be made happy, is there: all that which concernes every mans duty, is there; all the inſtruments of felicity, and the conveyance of our great hopes is there, and what other potentiality there can be in the law of Nature, then what I have reckon'd now, I neither have been taught by any manelſe, neither can I my ſelf imagine, or underſtand. Here are the general propoſitions which are the *forme*, and make the *honeſty* and the *juſtice* of all the particular laws of Nature; and what is not there provided for by ſpecial proviſion, or by general reaſon and analogy, is wholly permitted to humanelaws and contracts, or to liberty and indifferency, that is, where *the laws* of nature ceaſe, there *the rights* of nature returne.

47. 2. But ſecondly, to the objection I anſwer, that it will be but weakneſs, to thinke that all the inſtances of the law of Nature, muſt be as prime as Nature herſelf: for they neither are ſo prime, nor ſo laſting, but are alterable by God and by Men, and may be made more, or fewer, or other.

48. This may ſeem new, and indeed is unuſual in the manner of ſpeaking: but the caſe is evident and Empirically certain. For when God commanded *Abraham* to kill his ſon; the Iſraelites to rob the Egyptians and to run away with their goods; he gave them a commandement to break an inſtance of the natural Law; and he made it neceſſary that *Cain* ſhould marry with his Siſter: and all thoſe laws of Nature which did ſuppoſe liberty and indiſtinction of poſſeſſions are wholly altered when Dominion, and Servitude, and propriety, came into the world: and the laws of nature which are in peace are not obligatory to other perſons in the time of war.

49. For the laws of nature are in many inſtances relative to certain ſtates: and therefore in their inſtances and particulars are as alterable as the ſtates themſelves, but the reaſons indeed on which they doe relie (ſuppoſing the

ſame

ſame or equal circumſtances and the matter unchang'd) are eternal and unalterable as the Conſtitution of Nature. But therefore it was unwarily ſaid of the learn'd *Hugo Grotius*, and of divers others before him, that *God cannot change the law of Nature.* For as S. *Paul* ſaid of the prieſthood; that *it being chang'd, there muſt of neceſsity be a change alſo of the law*, ſo it is in the law of Nature; the matter of it being chang'd, there muſt of neceſſity alſo be a change in the law: for although the eſſential reaſon may be the ſame in chang'd inſtances yet that hinders not but the law may juſtly be affirm'd to be alterable; juſt as the law was under the ſeveral prieſthoods, in both which the *obligation is the ſame*, and ſo is *the relation to God*, and the *Natural religion.* * Thus when rivers are common it is lawful for any man to fiſh, and unlawful for my neighbor to forbid me, but when rivers are incloſed and made proper, it is unlawful for me to fiſh, and lawful for the proprietary to forbid me; before the incloſure it was juſt to doe that thing, which afterward is unjuſt; and this is as much a change of a particular law as can be imagined. * If it be meant, that while the propriety remains, or the ſtate, the law introduc'd upon that ſtate is unalterable: then there is no more ſaid of the law of Nature then of any poſitive law of God, or the wiſe law of any Prince; which are not to be altered as long as the ſame caſe and the ſame neceſſity remains; and it would be to no purpoſe to affirme ſo of the law of Nature; for the ſence of it would be, that while things remain as God eſtabliſhed them, they are unalterable. But if God can diſannull the obligation by taking away the *matter of the law*, or the *neceſsity* or the *reaſonableneſs*, or the *obligation* (and all this he can doe one way or other) it is not *ſafe* nor *true* to ſay, *God cannot alter the law of Nature.* * He chang'd the *matter* in ſuffering *liberty* to paſs into *ſervitude*, * he made *neceſsity* in one inſtance, I mean, in the matter of inceſt in the caſe of *Cain*, and afterwards took it away: * he took away the *reaſonableneſs* of the ſanction by changing the caſe in the ſubduction or mutation of the matter, * and he took off the *obligation* in the caſe of *Abraham* and of the *Iſraelites* robbing their Neighbors.

50. And therefore the Chriſtian laws ſuperinducing ſome excellencies and perfections upon humane Nature, and laying reſtraint upon the *firſt Natural laws*, that is, upon ſuch which before this laſt period of the world were laws of Nature, is no hard thing to be underſtood. God in it uſed but his own right. And I ſuppoſe it will be found to be unreaſonable to expound the precepts of the Religion by the former meaſures of Nature while ſhe was leſs perfect, leſs inſtructed: but this rather; the former inſtances of the Natural law are paſs'd into the Chriſtian precepts, and the Natural inſtance is chang'd, and the law alterd in it's material part; the formality of it remaining upon the ſuppoſition of a greater reaſon. Thus *to repell force by force* is *a right of Nature*; and afterwards it was paſſed *into a law* that Men might doe it; that is, God expreſsly gave them leave; and although it be *not properly a law* which neither *forbids* nor *commands* but onely gives a leave, yet when God had forbidden men to doe violence, and to eſtabliſh this law the rather, gave leave, to any man that could, to puniſh his unjuſt Enemy that attempted to doe him miſchiefe, it may be call'd *a law*, in the leſſer ſence, that is, a decree of the Court of Heaven by which this became lawful. * Though this was paſs'd into a law in the manner now explicated, yet it was with ſome reſtraints; which yet were not ſo great but they left a great liberty which was ſufficient ſecurity againſt violence. The reſtraint which God ſuperinduc'd upon *this Right of Nature* was but *moderamen inculpatæ*

patæ tutelæ, it left men defended ſufficiently againſt injuries though it permitted us to be tried in ſome leſſer inſtances and unavoidable accidents. But now although Chriſtianity hath proceeded in the firſt method of God, and reſtrain'd it yet more, and forbids us to ſtrike him that ſtrikes us, we are not to force this precept into a ſenſe conſiſting with the former liberty which we call *the law of Nature*; but was at firſt onely *a right of Nature* or a *permiſsive law*, but not obligatory; and afterwards ſuffer'd ſome reſtraints: for that which ſuffer'd *ſome*, may ſuffer *more*: and as *the right of nature* was for its being reſtraind recompenc'd in the proviſions of laws, and by the hands of juſtice, taking it from the private into the publike hand: ſo may this *right of nature* when it is wholly taken from us be recompenc'd by Gods taking the ἐκδίκησις or *the power of avenging* our quarrels into his hands.

51. This *right of nature* being now almoſt wholly taken from us, part of it is taken up to God, and part of it is depoſited in the hands of the *civil power*, but we have none of it; onely by Chriſt's *laws* and *graces* our *nature* is more perfect, and *morality* is ſet forward, and *juſtice* and all our *rights* are ſecured; but yet *the law is changed*. * The like may be ſaid in divers other inſtances, as I ſhall diſcourſe in their ſeveral places: here it is ſufficient to have given the firſt hint of it, and demonſtrated the certainty and reaſonableneſs of it, which (as appears by the inſtances) although it be eſpecially and frequently true in the *Jus naturæ* or the *permiſsive law of nature*, and in thoſe not onely God but men alſo may make an alteration; yet even in thoſe laws which are *directly obligatory*, the power of God who made them cannot be denyed to be equal in the alteration: And indeed he that can annull nature, can alſo at leaſt alter her laws, which are conſequent to Nature and intended onely for her preſervation.

52. The caſe ſeems to be the ſame with eating and drinking which God hath made neceſſary for our life, as juſtice is to ſocieties: but as he can take away the neceſſity from this perſon at this time to eat and can ſupply it otherwiſe: ſo he can alſo conſerve humane ſociety in the mutation of caſes and extraordinary contingencies as well as in the ordinary effects of juſtice. Indeed God cannot doe an unjuſt thing; becauſe whatſoever he wills or does is therefore juſt becauſe he wills and does it; but his will being the meaſure of juſtice, and his providence the diſpoſer of all thoſe events and ſtates of things to which the inſtances of Juſtice can relate: when he wills an extraordinary caſe and hath chang'd the terme of the relation, then he hath made that inſtance which before was unjuſt, now to become juſt; and ſo hath not chang'd juſtice into unjuſtice, but the denomination of the whole action concerning which the law was made, is alterd from unjuſt to juſt, or on the contrary.

53. It is not to be ſuppos'd that the whole law of Nature can be alter'd as long as our Nature is the ſame; any more then the faſhion of our garments can be generally alter'd as long as our body is of this ſhape: and therefore it is not to be thought that he that makes a doublet ſhall ever make three ſleeves unleſs a man have three armes, or a glove with ſix fingers for him that hath but five, but many particular laws of Nature ſuffer variety and alteration, according to the changes that are in our Nature and in our Neceſſities, or by any Meaſure of Man or Men which God ſhall ſuperinduce.

Duo cùm idem faciunt ſæpe, ut poſsis dicere
Hoc licet impunè facere huic, illi non licet;
Non quod diſsimilis res eſt, ſed is qui facit.

The

The rule of Nature is always the ſame; yet one may doe what another may not, and ſometimes that is lawful which at another is criminal; not becauſe the meaſure is changeable, but the thing meaſured ſuffers variety. So that in effect the ſence and extent of truth in this queſtion is this; That although as long as this world laſts and men in it, the law of Nature *cannot be abrogated*, becauſe it is that law which is fram'd proportionable to Mans Nature; yet *it may be derogated*, that is, leſſen'd, or inlarg'd in inſtances, chang'd in the integrity of many of it's particulars made, relative to ſeveral ſtates and new neceſſities; and this is that which in true ſpeaking does affirme that the laws of Nature may be chang'd. For although there are ſome *propoſitions* and decrees ſo General that they are in their Nature applicable to all variety of things, and therefore cannot be chang'd: yet they are rather the foundation of laws then laws themſelves: becauſe a law muſt be mixt with a Material part, it muſt be a direction of *actions*, and a bond upon *perſons* which does ſuppoſe many things that can be changed: And therefore although the propoſitions upon which the reaſonableneſs and juſtice of the law does depend, ſerves to the contrary inſtances by analogy, and common influence, yet the law being material does not, and therefore is alterable. But of this I ſhall give a fuller account in the ninth and tenth rules of this Chapter. For the preſent, I obſerve,

54. The want of conſidering this, hath made difficulty in this queſtion and errors in many. Every natural propoſition is not a law: but thoſe antecedent propoſitions, by the proportions of which laws ſtand or fall, are the meaſures of laws. *They are rules, not laws:* and indeed the *rules of Nature* are Eternal and Unalterable: that is, all thoſe Natural and reaſonable propoſitions which are dictates of prime reaſon, and abſtract from all perſons and all ſtates and all relations: ſuch as are *God is to be honour'd: Juſtice is to be done: Contracts are to be affirm'd: Reaſon is to be obeyed: Good is to be followed: Evil to be eſchewed.* Theſe are the common meaſures of all laws, and all actions: but theſe are made laws when they are preſcrib'd to perſons, and applied to matter: and when they are, becauſe that matter can have variety, the law alſo can, though the rule cannot.

55. That we are to reſtore all that was intruſted to us, is a Natural law deriv'd from the rule of doing juſtice: but this may be derogated and prejudic'd without ſin. For preſcription transfers the poſſeſſion and diſobliges the fiduciary from reſtitution.

56. By the law of Nature relying upon the rule of performing contracts, clandeſtine marriages are valid and firme: but yet ſome Churches, particularly the Church of *Rome* in the Councell of *Trent* hath pronounc'd ſome marriages void which by the Rule of Nature, and afterwards by a law were rate and legal; particularly, *clandeſtine marriages*, and *marriages not clandeſtine* by the ingreſs of one of the parties into Religion, as is to be ſeen in the eighth Seſſion.

57. By the law of Nature a teſtimony under two or three witneſſes may ſtand, but in the caſe of the accuſation of a Cardinal Deacon in *Rome* they require the concurrence of ſeven and twenty, of a Cardinal Prieſt ſixty four, of a Cardinal Biſhop ſeventy and two, and in *England* one ſhall ſerve the turne, if it be for the King. In Codicils the civil law requires five witneſſes. In teſtaments there muſt be ſeven: when a controverſy is concerning the eminency and prelation of excellent perſons, fifteen are demanded. But if theſe

things may be prejudic'd by men, much more may they be alter'd by God. But this extends it ſelf a little further. For in ſome of theſe inſtances, that which is a law of Nature becomes ſo inconvenient as to doe much evil, and then it is to be eſtimated by a new Rule; and therefore the whole law is chang'd when it comes to have a new meaſure, and the analogy of a New reaſon.

58. Upon the account of theſe premiſes it follows, that it is but a weak diſtinction to affirme *ſome things to be forbidden by God becauſe they are Unlawful*: and ſome to be *unlawful becauſe they are forbidden*. For this laſt part of the diſtinction takes in all that is unlawful in the world, and therefore the other is a dead member and may be lopp'd off. So *Ocham* affirmes againſt the more common ſentence of the Schooles (as his manner is) *nullus eſt actus malus niſi quatenus à Deo prohibitus eſt, & qui non poſsit fieri bonus ſi à Deo præciptatur & è converſo*: Every thing is good or bad according as it is commanded or forbidden by God, and no otherwiſe. For nothing is Unlawful antecedently to Gods commandement. Sin is a tranſgreſſion of ſome law, and this law muſt be made by a Superior, and there is no Superior but who depends on God, and therefore his law is its meaſure. There are ſome things good which God hath not commanded; but then they are ſuch which he hath commended by counſels, or analogies and proportions. But whatſoever is a ſin, is ſo therefore becauſe it is forbidden, and without ſuch a prohibition, although it might be *Unreaſonable*, yet it cannot be *criminal* or *unjuſt*. Since therefore all meaſures of good and evil in the entercourſes of Men wholly rely upon the law of God, and are conſequent to his will, although it can never be that we can have leave to be Unjuſt, or Unchaſt, that is, to doe againſt a law *in being with all its circumſtances*, yet the law may be ſo changed that the whole action which was forbidden may become permitted, and innocent, and that which was permitted may become Criminal. I inſtance in the ἀδελφομιξία, or the conjunction of the neereſt kindred, which once was lawful and ever ſince is become Criminal.

2. q. 19. ad 3. & 4.

59. The purpoſe of this diſcourſe is this, that we look no further for tables of the law of Nature, but take in onely thoſe precepts which bind us Chriſtians under Chriſt our lawgiver who hath revealed to us all his Fathers will. All the laws of Chriſt concerning moral actions are the laws of Nature: and all the laws of Nature which any wiſe Nation ever reckoned either are taken away by God, or elſe are commanded by Chriſt. So that Chriſtianity is a perfect Syſteme of all the laws of Nature, and of all the will of God, that is, of all the obligatory will; of all the Commandements. In thoſe things where Chriſtianity hath not interpos'd, we are left to our Natural liberty, or a *Jus permiſsivum*, a permiſſion, except where we have reſtrain'd our ſelves by *contract* or *dedition*.

Rule 2.

The law of Nature is the foundation of all laws and the meaſure of their obligation.

1. FOR all good laws, and all juſtice hath the ſame reaſonableneſs, the ſame rules and meaſures, and *are therefore good* becauſe they are *profitable*, and *are therefore juſt* becauſe they are meaſured by the common analogies and proportions: and

are

are therefore neceſſary becauſe they are bound upon us by God mediately or immediately. And therefore *Cicero* defin'd vertue to be *perfecta & ad ſummum perducta natura*, or *Habitus animi naturæ modo rationi conſentaneus*, The perfection of Nature, or a habit of mind agreeing to Natural reaſon. But more expreſsly and full in his third book *de legibus*: *lex eſt juſtorum injuſtorúmq. diſtinctio ad illam antiquiſsimam & rerum omnium principem expreſſa Naturam, ad quam leges hominum diriguntur, quæ ſupplicio improbos afficiunt, & defendunt & tuentur bonos.* A law is the diſtinction of good and bad, of juſt and unjuſt, expreſſed or fitted to Nature, which is the firſt and the prince of all, and to which humane laws are directed for the punishment of evil doers, and the defence of the good. And it is evident in all the moral precepts of Chriſtianity: all which are ſo agreeable to a mans felicity and ſtate of things to which a man is deſign'd both here and hereafter, that a man cannot be happy without them: and therefore they all rely upon ſome prime natural reaſon, which reaſon although poſſibly ſome or all of it was diſcovered to us by revelation and the wiſe proper diſcourſes of the religion, and was not generally known to men before Chriſt, yet the reaſons are nothing but conſonancies to our ſtate and being, introductive of felicity, perfective of our Nature, wiſe and prudent and noble, and ſuch which abſtracting from the rewards hereafter, are infinitely eligible and to be preferred for temporal regards before their contraries.

Lib. 1. de inv. & lib. 4. & 5. de finib.

2. Adde to this, they are ſuch which ſome few the wiſeſt of the Heathens did teach by natural reaſon, for ought we know. And there is a proportion of this truth alſo in all the wiſe laws of Common-wealths. The reaſons of which are nothing but the proportions of Nature, and the prime propoſitions of Juſtice, common Utility and Natural neceſſity. And therefore ſuppoſing that every civil conſtitution ſupplies the Material part or the inſtance, every civil law is nothing but a particular of the natural law in reſpect of its formality, reaſonableneſs and obligation. And all laws of manners are laws of Nature: for there can be but one juſtice, and the ſame honeſty and common utility in the world, and as a particular reaſon is contained in the Univerſal, ſo is the particular profit in the publike, *ſaluti civium proſpexit quâ intelligebat contineri ſuam*, ſaid *Torquatus* in *Cicero*, and ſo it is in laws. In the obſervation of the laws of Nature the good of every ſociety and every private perſon is compris'd: and there is no other difference in it, but that in every civil conſtitution there is ſomething ſuperadded; not to the reaſonableneſs or juſtice, but it is inveſted with a body of action and circumſtances. *Jus civile neque in totum à Naturali ac Gentium jure recedere, neque per omnia ei ſervire; adeò ut cùm juri communi aliquid additur vel detrahitur, jus proprium, id eſt, civile efficiatur*, ſaid *Juſtinian*: The civil law neither does wholly recede from the law of Nature and Nations, neither does it wholly ſerve it: for when any thing is added or detracted from the Natural law it becomes the Civil: and another, *leges poſitivæ repetunt Jus Naturæ quum leges ſive pactiones quæ ſunt Jura attingunt utilitatem & ſcopum Naturæ*; The poſitive laws of a Common-wealth repeat the law of Nature, when laws and covenants doe promote the profit and this deſign of Nature.

Lib. 6. tit. de juſtit. & jure.

3. But from hence it follows that the law of Nature is the onely rule and meaſure of all laws, and ſuperinduc'd laws of God and Man are but inſtances of obedienne in thoſe General precepts of Nature: and ſince the law of Chriſtianity contains in it all the law of Nature; and is now the onely law

that can oblige us primarily, and others in vertue of it: it is the prime and adequate rule and measure of Conscience, and the explication of all its precepts will be a full institution of the Conscience: to which purpose that saying of *Lælius in Cicero* is very pertinent: *viros bonos appellandos esse putamus qui assequuntur quantum homines possunt Naturam optimam rectè vivendi Ducem.* Nature is the best guide and measure of living well: and they who exactly observe her measures as far as Men can, are to be called Good Men.

De amicit.

Rule 3.

The first and greatest band of the law of Nature is fear of punishment.

I Have already spoken of this as it is the act and effect of Conscience: here I am to speak of it more abstractedly, and as it self hath effect upon humane actions; there as it is the Minister of the Judge: here as it is the Sanction of the law,

1. *Omne malum aut timore aut pudore Natura suffudit*, said *Tertullian*. Fear and shame are the waiters and handmaids of every sin which Nature hath provided for it. And indeed fear is the band of all laws. For although there is a pravity in the Nature of injustice which natural reason hates, proceeding partly from the deficiency from the perfective end of Nature and societies, which is injustice; partly from the consequent obloquy and disreputation which all wise men and all talking people put upon it (for they that doe it themselves speak ill of it in others) yet this is but a little. This is a part of the punishment of the breach of the Natural law; but not strong enough to make a firme obligation. Now in all laws there must be some penalty annexed, the fear of which may be able to restrain men from doing against the law: which cannot be unless the evil be greater then the benefit or pleasure of the prævarication can be: and therefore it is, that God establishing this law hath appointed *a Court* within us, *a severe judge* who will not spare, *a wise discerner* who will not be deceived, *an exact remembrancer* which never forgets any thing that can doe the greatest mischiefs, *a just witness* who will not be suborn'd, and is conscious and privy to all that which he is to judge; and the same also is the *executioner* of the delinquent and sinning people.

Apolog. c. 1.

2. The stings of Conscience and fear of the Divine vengeance, is this evil which Naturally restrains us: it is the greatest restraint, because it is the greatest of evils, and it is *Unavoidable*, and it is *Natural*. I will not adde *it is lawful* to abstain from evil for fear of punishment, but it is *necessary*, and it is *Natural*, and that is more; and this is it which *Epicurus* taught, οὐκ ἄλλῳ τινὶ τὸ ἀδικεῖν δεῖν ἀπεργεῖν, ἢ φόβῳ ἡλάσεων; which although *Plutarch* seems angry at, was well enough spoken by him; meaning that it is a fear not of temporal discovery and civil punishment which is onely appointed to restrain evil actions, but a fear of those evils whose *apprehension* God hath made *necessary* and *congenite* with the Nature of Man; fear of Gods displeasure, and the destruction of our Nature and felicities relying upon that Natural love of our selves and desire of our own preservation, without which a man cannot be suppos'd sufficiently provided with principles of necessary being and providence.

3. There

3. There is another kind of fear of punishment, that is, a fear of those auxiliary punishments which Princes and Republikes have superadded to the breakers of Natural laws, which is in some men who are despisers of all the evils which are threatned hereafter: Such as was that of *Thrasymachus* in *Plato*. *Nihil esse melius quàm facere injuriam neque pœnas dare, nihil pejus quàm pati nec posse Ulcisci; medio autem modo se habere Justitiam, cùm quis nec facit nec patitur, quod ut fiat, esse optabile; sed nempe imbecillibus quorum proinde interest paciscì aut servare pacta, non autem valentioribus, qui si viri fuerint ac sapuerint, nullatenus pactum de injuria non inferenda accipiendave sint inituri.* Nothing is better then to doe injury without punishment: nothing worse then to suffer mischief and to be able to doe none again. In the midst of these is justice, which neither does injury, nor receives any, which is much to be desired; but by whom? By none but by weak people. For the stronger, if they be valiant and wise will never enter into Covenants concerning not doing or receiving injury. * According to this doctrine, there should be nothing of it self just or unjust, and if there were, it were not to be regarded, but so long as justice were profitable, and injustice troublesome and dangerous. And therefore strong men or crafty might in many cases be exempt from contracts and from doing justice, and would neither doe right, nor take wrong. 7. de Repub.

4. Against this it is that all wise men in the world doe speak, *Vos autem nisi ad populares auras inanésque rumores recta facere nescitis; & relictâ conscientiâ virtutísque præstantiâ de alienis præmia sermunculis cogitatis*, said *Boetius* in indignation against all those who took accounts of themselves by publike noises not by the testimonies of a just Conscience, that is, who fear man but doe not fear God. And to doe good out of fear of punishment (in this sence) is to doe good no longer then I am observed, and no longer then I am constrained: from both which because very many men are very often freed, and all men sometimes, there would be no habit, no will, no love of justice in the world; that is, there would be no vertue of justice, but single actions as it could happen. This would introduce horrid tyrannies, while Princes and Generals having power in their hands might do all things as they pleased, and have no measure but their own private: and all mens conditions under them would be always precarious and arbitrary, and most commonly intolerable: And therefore this fear is the characterisme of evil persons, De consol. Philosoph.

Oderunt peccare mali formidine pœnæ.

and against such civil laws are made: *Justis lex non est posita*, saith S. *Paul*, *the law is not made for the righteous, but for the wicked.* If the sons of *Israel* had continued pious as *Abraham*, *Isaac*, and *Jacob* were, the law should not have been given to them as it was upon *Mount Sinai*; but the necessities of men brought a law upon them, and that law a punishment, while good men ποιῶσιν ἑκουσίως ἃ ποιοῦσιν ἄκοντες οἱ λοιποὶ διὰ τὸν νόμον as *Zenocrates* in *Laertius* said of the Philosophers; they doe it

Sponte suâ, veterísque Dei se more tenentes. 7. Æneid.

for the love of God; by choice and delight in the actions of vertue they doe excellent things, *Plúsque ibi boni mores valent quàm alibi bonæ leges*, as *Tacitus* said of the old *Germanes*. *Good manners prevail'd more then good Laws.* Thus did the *Patriarchs*, and therefore they needed not a law. *Vetustíssimi mortalium nullâ adhuc malâ libidine, sine pretio, sine scelere, eóque sine pœna & coercitionibus agebant: neque præmiis opus erat, cùm honesta suopte ingenio peterentur: & ubi nihil contra morem cuperent, nihil per metum vetabantur.* Our fore- Tac. Annal. 3.

fathers desir'd nothing against honesty and justice and therefore were not forbidden any thing by the instrument of fear.

5. But therefore the civil and positive law is not made for all those men who have other restraints; that is, for good men who are mov'd by better principles; but because these things that are better are despis'd by the vitious and the Tyrants, oppressors and the impudent, the civil power hath taken a sword to transfixe the Criminal and to kill the Crime. And therefore *Epicurus* in *Stobæus* said not amiss: *laws were made for wise men, not for fear they should doe ill, but lest they should suffer evil from the Unjust.*

6. And yet even the wise and the good men have a fear in them which is an instrument of justice and religion; but it is a fear of God, not of the secular Judge, it is a fear that is Natural, a fear produc'd from the congenite notices of things, and the fear of doing a base thing; a fear to be a fool, and an evil person.

Me natura dedit leges à sanguine ductas
Ne possem melior Judicis esse metu.

said *Cornelia* in *Propertius*: a good man will abstain from all Unrighteous things, though he be sure that no man should hear or see any thing of it, that is, though there were no laws, and superinduc'd punishments in republikes: and all this upon the account of such a fear which a good man ought to have; a fear of being a base person or doing vile things.

Ovid. l. 3. Eleg.

——Impositio teneræ custode puellæ
Nil agis: ingenio quæque tuenda suo est.
Siqua metu dempto casta est, ea denique casta est;
Quæ quia non liceat, non facit, illa facit.

That chastity is the Noblest which is not constrain'd by spies and severity, by laws and jealousie: when the mind is secretly restrain'd, then the virtue is secur'd. * *Cicero* puts a case to *Torquatus*: *Si te amicus tuus moriens rogaverit ut hæreditatem reddas suæ filiæ, nec usquam id scripserit, ut scripsit Fadius, nec cuiquam dixerit, quid facies?* *Aruncanus* dies and leaves his inheritance to his daughter *Posthumia*, and intrusts his friend *Torquatus* with it, but privately, without witness, without consignation of tables: will *Torquatus* who is a *Feoffee* in private trust restore this to the child when she shall be capable? Yes; *Torquatus* will, and *Epicurus* will, and yet *Cicero* had scarce a good word for him, whom he hath fondly disgrac'd during all ages of the world, weakly and Unjustly: but the account he gives of it is pertinent to the rule: *Nónne intelligis eò majorem esse vim naturæ, quod ipsi vos qui omnia ad vestrum commodum, & ut ipsi dicitis ad voluptatem referatis, tamen ea faciatis quibus appareat, non voluptatem vos, sed officium sequi, plúsque naturam rectam, quàm pravam rationem valere.* Nature is more prevalent then interest: and sober men though they pretend to doe things for their real advantage and pleasure, yet follow their duty rather then either *pleasure* or *profit*, and *right nature* rather then *evil principles.*

7. The reason of this is, because Nature carries fear and reverence in the retinue of all her laws, and the evils which are consequent to the breach of Natural laws are really, and by wise men so understood to be greater mischiefs then the want of profit, or the missing of pleasure, or the feeling the rods and axes of the Prince. If there were no more in a crime then the disorder of Nature, the very unnaturalness it self were a very great matter, S. *Basil* said well, *ad omnia quæ descripta à nobis, à Deo præcepta sunt, consequenda, naturales*

Reg. fusior. inter. 2.

rales ab ipso facultates accepimus. God hath given to vertues, Natural Organs, or bodily instruments; as to mercy he appointed bowels, eyes for pity, hands for relief; and the proper imployment of these is so perfective of a mans condition (according to their proportion) that not to employ them according to the purpose of Nature is a disease, a Natural trouble; just as it is to trumpet with *our mouth* which was intended for eating and drinking and gentler breathings. It is punishment enough to doe an Unnatural and a base action, it puts our soul and it's faculties from their centre, and the ways of perfection. And this is fully observed by *Seneca*: *Male de nobis actum erat quòd multa scelera legem & Judicem effugiunt, & scripta supplicia, nisi illa naturalia & gravia de præsentibus solverent & in locum patientiæ timor cederet.* Mankind were in an ill state of provisions, if those wickednesses which escape the law and the Judge, did not suffer the more grievous inflictions of natural punishment and fear came into the place of patience; still, *fear is the bridle*: but it is an honest fear, a fear of God and of natural disorders and inconvenience. Οὐκ ἐν συμβολαίοις πολιτικοῖς οὐδὲ ἐν ἀπαγορεύσει νόμου, ἀλλ' ἐξ ἰδιοπραγίας, καὶ τοῦ πρὸς τὸν θεὸν ἀγάπης ἡ δικαιοσύνη as *Clemens* of *Alexandria* calls it; a righteousness not produced by laws and the sword, fear and interest, but from the love of God, and something that is within: There is a fear, but it is such a fear as still leaves the love to vertue, and secures it in privacies and enjoynes the habit and constant practice of it: a fear that is complicated with a Natural love of our own preservation, and is constant, and measur'd by God, and in the Natural limit cannot be extravagant; a fear that acknowledges Gods Omniscience, and his Omnipresence, and his eternal justice: and this was the sence of that of *Sophocles*.

Πρὸς ζυπὸν κρύπτε μηδὲν, ὡς ἅπαντ' ὀφῶν
Καὶ πάντ' ἀκούων πάντ' ἀναπτύσσει χρόνος.

Doe nothing basely and secretly; for times Father sees and hears all things, and time will discover it, and truth shall be the daughter of time, and that which is done in secret shall be spoken upon the tops of houses: so both the *Christian* and the *Heathen* are conjoyn'd in the several expressions of the same great truth. This fear is deposited in Conscience, and is begotten and kept by this proposition that *God is a rewarder of all men according to their works.*

Consequent to this is the love of Vertue.

RULE 4.

The second band of vertue is love, and its proper and consequent deliciousness.

1. THis is not wholly Natural, but in much of it is *Empirical*, ἔυρημα χρόνε καὶ ζήτε proceeding from the grace of God, and the experience of the deliciousness and rewards of vertue, and the excellency of a greater hope which does entertain our spirits in the outer courts of pleasant expectations: ὅπ ἐκ φιλοσοφίας τοῦτο αὐτῷ προσήκοντε τὸ ἀνεπιτάκτως ποιεῖν ἅπαντας διὰ τὸν ἀπὸ τῶν νόμων φόβον ποιοῦσι, as both *Aristotle* and *Xenocrates* did speak. It is the effect of Philosophy and Religion, of vertuous and severe institutions to doe that for love and without constraint, which fools, and vitious, and weak persons doe for fear of laws.

2. Now

2. Now this, I ſay, is not *Natural*, that is, although it be agreeable to Nature, yet not primarily introduc'd by it, without a Tutor, becauſe Nature forbids *injuſtice*, but does not command *juſtice*, but *ſecondarily* and *by accident* and *upon ſuppoſition* of other contingencies. *To doe injuſtice* is alwaies a ſin but *not to doe a juſtice* is not alwaies. For a man may depoſe the perſon of a *Judge*, or a *truſtee*, or a *delegate*; but they who habitually doe juſtice, find the rewards of reputation, and the eaſe of being freed from the torments of an evil Conſcience which is a delicacy, like the being eaſed of the horrid gripes of the *colick*; and ſo inſenſibly grow in love with juſtice, that they think they love juſtice for juſtice ſake.

Ipſa ſui merces erat & ſine vindice præda.

3. Concerning which it is fit we conſider a little leaſt it become the occaſion of *Scruples* and *nice opinions*. *Antigonus Sochæus* an old Jew was fam'd for ſaying, Be not ſervants who ſerve their Lord that they may receive a reward from him; but be ſuch who ſerve him without conſideration of wages, or recompences, and let the fear of God be upon you: *Baithus* and *Sadoc* his Diſciples, from whom the ſect of the Saduces did ſpring, not well underſtanding him, took occaſion from hence to deny the Reſurrection and rewards after this life. And indeed ſuch ſayings as theſe are eaſily abuſed; and when ſome men ſpeak Great things, and others beleeve as much of it as they Underſtand, but underſtand it not all, they make Sects and divide their Schools, and ignorance and faction keep the doors and ſit in the chairs ſometimes. It is impoſſible a man ſhould doe Great things, or ſuffer nobly without conſideration of a reward; and ſince much of vertue conſiſts in ſuffering evil things, vertue of her ſelf is not a beatitude, but the way to one. He does things like a fool, who does it for no end: and if he does not chooſe a good end, he is worſe: and vertue herſelf would in many inſtances be unreaſonable if for no material conſideration we ſhould undertake her drudgery: and therefore S. *Auſtin* ſaid well, *Sublatis æternis præmiis & pœnis verum ſtaturum à partibus Epicuri*: Senſual pleaſures were highly eligible, and not vertuous ſufferings, *if in this life onely we had hope*. But if it be accounted the top of vertue to love vertue for vertues ſake, and without intuition of the reward; many times good men obſerving that themſelves are encouraged by all Gods promiſes to obedience and patience, and that in *Martyrdome* there is no *Natural* or *ſenſitive* pleaſure, and that it cannot be lov'd for it ſelf, but wholly for its reward, will find themſelves put into *fear where no fear is*, and that a *nequam humilitas* an unworthy opinion of their duty ſhall affright their peace and holy confidence. *Peregrinus* the Philoſopher in *A. Gellius* expreſs'd this love of vertue for it ſelf, thus; *Etiamſi Dii atque homines ignoraturi forent*; to doe good though *neither God nor Men ſhould know of it*: but as this is impoſſible *in fact*, ſo it is *in ſpeculation*; for there were no ſuch thing as vertue, if it were not *relative* and directed to *God* or *Man*: But yet the thing which they mean is very good. Good men love vertue for vertues ſake, that is, they act it and love it, they doe it with ſo habitual and confirm'd elections and complacency that many times they have no actual intuition to the reward; they forget *this*, they are ſo taken with *that*; like a man that chooſes a wife upon many conſiderations, as *portion*, *family*, *hopes* and *beauty*; yet when he hath convers'd long with her and finds her amiable and fruitful, obedient and wiſe: he forgets all other conſiderations, and loves her perſon for her own perfections, but will not quit all his other intereſts. The difference is beſt underſtood by variety of Motions. Some Motions cannot be continued unleſs ſome agent or other do continually urge them;

them; but they are *violent* and *unnatural*: others are perfective and lov'd, and they will continue and encreaſe by their own principle if they be not hindred. *This* is the *love* of vertue, *that* is, *fear*, or it may be *hope*; ſave that *hope* is a thing between both, and is compounded of both, and is more commendable then *fear*. But to love vertue for it ſelf, is nothing elſe, but to love it directly and plainly; he that loves it onely for the reward, and is not by the reward brought to love the thing, loves not this at all but loves ſomething elſe: but he that loves it at all, ſees *good in it*, becauſe he finds *good by it*, and therefore loves it ſelf, now, whatever was the firſt incentive: and the woodden arch may be taken away when that of marble is concentred.

4. 2. *Vir fortis & juſtus .... in ſumma voluptate eſt & periculo ſuo fruitur.* "When a good man laies before him the price and redemption of his mortality, "the liberty of his Country, the ſafety of his friends, he is hugely pleas'd and "delights in, and enjoies his danger. But if he feels not this pleaſure, yet with- "out trembling and uncertainty he will dare to die, *facere recte pleq. contentus*; "and if you tell him this reputation which he gets of his Citizens will die al- "moſt as ſoon as he ſhall die; he anſwers, all thoſe things are without the nature "and conſideration of my work: *Ego ipſum contemplor, hoc eſſe honeſtum ſcio*: "I look upon the work it ſelf and find it honeſt, and that's enough; meaning ſecretly; that though theſe outward rewards were pared off, yet there are ſe- cret pleaſures which will follow and ſtick cloſe to vertue, as the ſhadow does to the body, and this good men muſt conſider, becauſe they feel it, and that is part of the reward.

5. 3. They are pleaſed with the vertue it ſelf, and their ſoul is as much de- lighted with it, and as naturally as the eye with beauteous colours, or the throat with Unctuous juices, or the tongue with moiſt ſweetneſſes, For God hath made vertue proportionable to all the noble ends, and worthy deſires of man- kind, and the proper inſtrument of his felicity: and all its beauties, and all its works, and all its effects, and all that for which it can be loved is part of the re- ward. And therefore to ſay a man can love vertue for vertues ſake and without conſideration of the reward, is to ſay, a man can love vertue without any rea- ſon and inducement, without any argument to move his affections.

6. 4. For there can be but two cauſes of amability in the world, *Perfection* and *Uſefulneſs*, that is, *Beauty* and *Profit*; *that* in the thing it ſelf, *this* as it re- lates to me: Now he that ſaies, a man may *love vertue for its own ſake* with- out conſideration of the reward, ſaies no more then that a man may love a flower which he never hopes to ſmell of; that is, he may admire and commend it, and love to look on it, and juſt ſo he may doe to vertue. But *if he deſires* either, it is becauſe it is *profitable* or *uſeful to him*, and hath ſomething that will delight him, it canot elſe poſſibly be *deſir'd*.

7. Now to love vertue in the firſt ſence is rather *Praiſe* then *love* an act of Underſtanding rather then of the Will, and its object is properly the per- fections of the flower or the vertue reſpectively: But when it comes to be *deſired*, that is, *lov'd with a relation* to my ſelf, it hath for its object other perfections, thoſe things that pleaſe, and that delight me, and that is nothing but part of the reward or all of it.

8. The queſtion being thus explicated, it follows, that to love vertue for vertues ſake, is ſo far from being the honour of a good and perfect man, that it

it is the character of an evil man, if it goes no further. For it amounts to nothing but this that the understanding is convinc'd of the worthiness of it,

——— *video meliora proboque.* ———

it is that which S. *Paul* calls *a delighting in the law after the inner man.* * But it is a *Relative*, *Material*, *Practical* love of vertue that makes a good man; and the proper inducement of that is also *Relative*, *Material* and *Practical.*

Est profecto Deus qui quæ nos gerimus
Auditque & videt. Bene merenti, bene profuerit,
Male merenti par erit :

Plaut. said the *Comedian*,. God hath so endeared justice and vertue to us, that he hearing and seeing all things, gives good things to them that doe good things; but he will be even with the evil man.

9. 5. Lastly, To love vertue for vertues sake, is to love it without consideration of humane rewards, praise of men honours, riches, rest, power, and the like, which indeed are the hinges of most mens actions.

Ovid. *Cura quid expediat, prior est quàm quid sit honestum,*
Et cum fortuna statque caditque fides.
Nec facile invenies multis de millibus unum,
Virtutem pretium qui putet esse sui.
Ipse decor recti, facti si præmia desint,
Non movet, & gratis pœnitet esse probum.
Nil nisi quod prodest charum est.

Now he that is a good man and loves vertue vertuously, does not love it principally for these secular regards; but without such low expectations, and without apprehension of the angry sentence of the laws; but this does not exclude the intuition of the Divine reward from having an influence into the most perfect love of vertue; for this is intrinsecal to the sanction and the Nature of the law; the other is extrinsecal and accidental. The first is such a reward as is the perfection of the work; for *glory is the perfection of Grace*; and he that serves God for hope of glory, loves goodness for goodness sake: for he pursues the interest of goodness that he may be fill'd with goodness; he serves God here that he may serve him hereafter; he does it well that he may doe it better; a *little while* that he may doe it over again for ever and ever. Nothing else can be a loving vertue for vertues sake; this is the greatest perfection and the most reasonable and practicable sence of doing it. * And if the rewards of vertue were not the great practical inducement of good mens love to goodness, all the promises of the Gospel were to no purpose in relation to the faith of good men, and therefore the greatest and the best part of faith it self would be useless: for there is no purpose or end of faith of the promises but to enable our obedience by the Credibility and expectation of such promises to doe our duty.

10. Now that even good men, even the best men, even all men have an habitual regard to it, besides that it is impossible to be otherwise (for he that plowes does plow in hope) and will easily be understood to be so by them who know the causes and nature of things; it appears also in the instance of as good a man as any story reports of; even *Moses* who *despised to be called the son of Pharaohs daughter, because he had an eye to the recompence of reward*: and by the instance of all those brave persons whom S. *Paul* enumerates in the eleventh Chapter to the Hebrews; *who all died in faith not having received the promises*; but they look'd for better, even such as were to come; and beyond
Heb. 11. 13. all this; Our Blessed Lord himself, *despis'd shame and endured the Cross*; but

it

it was *for the glory that was ſet before him.* For it is the firſt and the Greateſt article of the Gentiles Creed, Every one that comes to God muſt beleeve that God is, and that he is a rewarder of them that diligently ſeek him.

1. The ſumme is this; Although in Nature herſelf, and in the Conſcience relating to her, there is a Court punitive and a fear of God, yet the expectation of reward is rather put into us, than born with us, and reveal'd, rather then Natural; and therefore the expectation of good is the ſecond band of Natural laws, but extrinſecal and adventitious, communicated to us by revelation, and by grace.

RULE 5.

The imperfection of ſome proviſions in civil laws are ſupplied by the Natural obligation remaining upon perſons civilly incapable.

1. WHen laws make proviſion of caſes ὅτι τὸ πλεῖστον, in as many things as they can foreſee, or feel, and yet ſome things will emerge which cannot be foreſeen, and ſome contrary reaſons will ariſe; many times there is no care taken for ſome things and ſome perſons by any conſtitutions of Man. Here *Nature* as the common Parent of all juſtice and neceſſary obligations, takes the caſe into her protection.

This happens in many caſes:

1. Humane laws give meaſures of things and perſons which fit moſt men without a ſenſible error, but ſome it does not. Young perſons are at a certain age declar'd capable of making profitable contracts; at another age of making contracts that are hazardous, and they muſt ſtand to them, though they be miſchievous. At one age they may marry; at another they may contract a debt; at another they may make a Teſtament; at another they may be puniſhed with Capital inflictions. But in ſome perſons the malice is earlier and the wit more pregnant, and the ſenſe of their advantages brisk enough: and therefore the contracts which they can make; and the actions which they doe, and the part which they chooſe is really *made*, or *done*, or *choſen*; but they not bound to ſtand to it, by the civil law: and yet if they can *chooſe* they are *naturally obliged.* Both of them are neceſſary: The civil law cannot provide but by common meaſures

Quos ultrà citráque nequit conſiſtere rectum.

all their rules are made by as common a meaſure as they can, and they are the beſt rules that have the feweſt exceptions: the beſt Carpenters make the feweſt chips: but ſome there muſt be. But then it is neceſſary that Nature ſhould provide, by ſingle proviſions in all the ſingle exceptions; for it is neceſſary it ſhould be done, and ſhe onely can doe it. She can doe it becauſe Nature hath provided an inſtructed, a judging and a diſcerning Conſcience, and the perſon that contracts or receives a benefit, can bind himſelf to man as ſoon as he can bind himſelf to God; becauſe the laws of God bind all our contracts with men. That is, plainly thus, God's laws provide not onely for general caſes but alſo for particular circumſtances; and of every thing God and Gods vicegerent, *Conſcience*, can take accounts; and therefore this abundance

dance ſupplies the others defect; the perfection of God makes up the breaches of the imperfection of Man. Which rule is to be underſtood both of things and perſons. For all our duty is onely an obedience to God: and every one that can hope or fear is bound to this obedience; therefore there can be no gap here: God hath in every thing ſhut up every perſon that can uſe reaſon, by ſome inſtrument or other. And therefore *Cicero* ſaid well, *Si regnante Tarquinio nulla fuiſſet Romæ ſcripta lex de ſtupris tamen contra illam legem ſempiternam Sextus Tarquinius vim Lucretiæ Tricipitini filiæ attulit: erat enim ratio profecta a rerum Natura, & ad recte faciendum impellens, atque à delicto avocans.* There was no civil conſtitution againſt rapes, but *Tarquin* ought not to have done it; for there was an eternal law againſt it. For right reaſon proceeding from Nature drives us on to good and calls us off from evil. That is, he could not but know it was ill, and againſt reaſon, and againſt every thing by which he ought to be governed; and even to the Heathen God was not wanting, but bound theſe laws upon them by reaſon, and inclination, and neceſſity, and fame, and example, and contract, and hope, and fear, and by ſecret waies which we know not of. He made ſome inclinations and ſome reaſon to become laws, that Mankind might not live like beaſts and birds of prey: in all caſes, and in all times, and to all perſons he became a Lord and a Lawgiver ſome way or other.

Lib. 2. de lege.

3. Young perſons of twelve or fourteen years old can be ſav'd or damn'd; they can love or hate, they can Underſtand yea and nay, they can doe a good turne or a ſhrewd, they can lead a blind man right or wrong, they can bear true or falſe witneſs: and although the civil laws out of care leaſt their eaſineſs be abuſed by crafty people, make them ſecure from it by nulling the contract, that the deceiving perſon may not reap the harveſt of his fraud, yet there are very many caſes in which the Minor receives advantage, or at leaſt no wrong, and though it was fit he ſhould be ſecured, it was not fit he ſhould be enabled to doe a miſchief to another, *ut levamen his, aliis ſit onus*, as S. *Paul* in a like caſe, *that they be eaſed and others burdened.* For although the other Contractor be ſufficiently warned to take heed of the *Minor*, yet there may be *need* in it, or *charity*, *friendſhip* or *Confidence*; all or any of which if they might be deceived the Minor would ſuffer often, but the other Contractor but once. Therefore as the *Civil law* ſecures them from harme, ſo *the law of Nature* binds them to doe none, but to ſtand to ſuch contracts in which they have advantage or equality, and in which they were not abus'd. * The time when they come to be oblig'd is the time when they come to the uſe of reaſon * when they underſtand their duty * when a prudent man judges them fit to be contracted with * when they can uſe fraud to others * when they can conſider whether they be bound or no: theſe are the beſt marks and ſignatures of the time, and declare the obligation in all caſes where there is no deception evident.

4. 2. Sometimes both parties can contract: but becauſe they doing it without witneſſes, may recede from it, either *conſentingly* or againſt the will of one of them, the poſitive conſtitution of Man intending to provide againſt this inconvenience hath cut the civil tie in peeces and refuſes to verifie the contract, beſides that it cannot legally be proved. In this caſe Nature relieves the oppreſſed party, and ſupplies the eaſineſs of the civil band, and ſtrains that hard which the others let looſe. And this happens in clandeſtine contracts: againſt which in the matter of marriage all Chriſtian Countries have made ſevere edicts: but in caſe they be done, in ſome places they are pronounced valid, in

ſome

ſome places declared *Null.* Where they are nulled, Nature is defeated in making proviſions and the parties are warranted to doe a miſchief. For if *Mauritius* and *Cluviena* contract marriage; and *Mauritius* repent his bargain where ſhall *Cluviena* be reliev'd? The law of the Church forbids it, and will puniſh her for doing it if ſhe complains. The Civil law takes no notice of it, for it cannot be legally prov'd: and the law of Nature is barr'd out, if it be declar'd Null; and then there is nothing left to hold him. It is the caſe of the Church of *Rome* who in the eighth Seſſion of the Councel of *Trent* declares all *clandeſtine contracts* to be *null*, and their mixtures to be fornication and uncleanneſs. But they have overacted their zeal againſt a temporal inconvenience, and *burn their houſe to roaſt an egge*; they deſtroy a law of Nature by a law of the Church; againſt the former practices, counſels and reſolutions, even of their own Church. * For if thoſe contracts are in themſelves naturally valid and not forbidden by God, then they cannot reſcind them: if they be not naturally valid, ſince they were alwaies poſitively forbidden, why were they eſteemed valid for ſo many ages? For till that Councel they were ſo, but finding that the former prohibitions were not ſtrong enough, they took this courſe to break them all in pieces: And out of deſire to prevent an accidental evil, they made it more ready to be done. For it was before but feared leſt they ſhould recede: but yet if they did, they were eſteem'd adulterers if they married again: and they themſelves knew when they were precontracted; and therefore ſtood convicted and pinch'd in their own Conſciences ſo long as the old laws remain'd, and men did not receive warrants to break the moſt ſacred bands in the world: but by this nullifying the contract, they have not onely leave to goe off, but are commanded; and if they be weary of this, they may contract with another, and there is nothing to hinder them, if Nature does not. This Nullity therefore is a vehement remedy that deſtroies the patient; beſides that it is againſt the law of Nature. The laws may forbid it to be done; but if it be, they cannot reſcind it; becauſe the civil conſtitution is leſs then the Natural, and convenience is leſs then Conſcience, and man is infinitely leſs then God.

* *Navarrus Enchyrid. c. 25. Et congregatio Cardinalium quos talis & tam putidi pudoris decreti, decretis revocat rem facti in aut dictam, & ſponſalia clandeſtina etiam poſt concilium rata manere, ſicut & ante. Conſuluerunt ſc. famæ Concilii, non propriæ, qui rem tam certam, & ſibi tam planam & gratæ palam non erubuerunt.*

5. 3. Some pretend to doe a greater good, and to doe it, break a contract juſtly made: and if the civil conſtitution allowes it, the law of Nature reclaimes, and releeves the injur'd perſon. This was the caſe of the Phariſees who denied to releeve their Parents out of zeal to fill the Treaſure of the Temple, and thought that their voluntary religion excus'd from their Natural duty. The Church of *Rome* gives leave to either of the perſons who are married ſolemnly, and contracted rightly to recede from their vow and enter into religion, and declares the marriage ſeparate and broken. Here Nature calls upon the obliged party, and ought to prevail above any other pretence; it being firſt in poſſeſſion and faſter in obligation: and if it be naturally an evil to break a lawful contract made without fraud, and which is in our power to kee p; then it ought not to be done for any good in the world.

6. 4. Hither alſo are to be reduc'd, obligations by Unſolemne ſtipulations, by command of Parents, by intermination of curſes, by meer delict amongſt perſons, againſt whom lies no civil action, as of ſervants to their Lords, ſons to their Fathers: concerning which proper accounts are to be given in their own places. Here onely they are to be noted in the general obſervation of caſes in which the law of Nature hath made an obligation, when the civil power could not, or would not, or did againſt it.

7. But it is proper to diſcuſſe a difficult queſtion which intervenes upon this rule. The caſe is this; By the law of Nature every man hath power to make a Teſtament of his own Goods: But the civil law requires conditions of every Teſtator that the Teſtament ſhall be ratified by ſo many witneſſes, or elſe it ſhall be invalid. *Sempronius* dying leaves *Caius* his heir, and gives but a ſmall portion to his ſon *Porcius*, but declares this by an Unſolemne Teſtament. The like may happen in all donations and actions to which any ſolemnities of law are required.

Queſt.

8. THe queſtion is, Whether the Eſtate be due to *Caius* by the law of Nature, or is not *Porcius* the ſon to be releeved by the civil Conſtitution which makes the Unſolemne Teſtament to be invalid? To this it is commonly anſwer'd, That to make a Teſtament is not a *law of Nature*, but a *right onely*, which as a man may himſelf relinquiſh, ſo may the publike laws reſtrain for the publike good: for there being ſo many frauds in pretended Teſtaments it is neceſſary that proviſions ſhould be made to prevent the infinite evils that may happen. Now whatſoever is *neceſſary*, is alſo *juſt*; if the neceſſity be publike, real, and unavoidable by other means: and if it be juſt, the publike power hath ſufficient authority to reſtrain *any mans right* for *every mans good.*

9. 2. Every ſentence of the Judge in a clear caſe that binds in law, does alſo bind in Conſcience; but if the Judge of civil actions did know that *Sempronius* really did appoint the ſtranger *Caius* his Heir, yet by the law he were bound to declare for the ſon *Porcius*, and that the *real unſolemne* Will of *Sempronius* were to be accounted nothing: So that although the Law were made to prevent fraud, yet even when there is no fraud, and the Judge knowes there is none, yet the Unſolemne Teſtament is to be declar'd invalid by the law: which law becauſe it is juſt, and for a juſt cauſe, and by a competent Authority, muſt bind in Conſcience by the force of the words of S. *Paul*; *Let every ſoul be ſubject to the higher powers*. And therefore if the law be good and the Judge juſt in giving the inheritance from *Caius* to *Porcius*, certainly *Caius* muſt needs be unjuſt if he detains it.

10. 3. And this very thing is conſented to in the Canons of the Church, which are uſually fram'd, and ever to be preſum'd *(ubi contrarium non conſtat)* to be more agreeable to the meaſures of Conſcience; and yet in the Canon law, a Teſtament fram'd and ſign'd in the preſence of two witneſſes is not good, unleſs the Pariſh Prieſt be preſent; and that no man can lawfully detain a legacy upon the Warrant of ſuch a Will.

11. 4. For ſince every act of man conſiſts of the *poteſtative* and *elective* faculties, if either will be wanting, or power, the act is invalid. It is not therefore enough though the will be manifeſt and confeſſed; for if the man have no power, his will is ineffective.

12. But this opinion though relying upon fair probabilities and great authority, is not to be aſſented to as it lies, but with great caution and proviſions. For a right of Nature cannot be taken away by a civil power, intirely, and habitually, but onely *quoad exercitium actûs*; the exerciſe of the act of that right may indeed be impeded for great reaſons and to prevent great evils, ſince therefore the power of making Teſtaments is a Natural right, and is wholly ſuſpended

ſuſpended in its act to prevent frauds in Unſolemne Teſtaments, where the caſe is evident and no fraud at all, although the civil law is ſtill valid becauſe it being eſtabliſhed upon a general cauſe, though it fails in a particular it does not fail in the General, and therefore ſtill is rate and firme; yet becauſe it does fail in the particular where that is known, there is a port open for Chancery, for conſiderations of piety, and religion. And therefore although in the caſe put, *Porcius* who is the natural Heir of *Sempronius*, is to take the advantage of the civil law againſt *Caius*; yet if *Sempronius* had made an Unſolemne Teſtament in behalf of his Natural Heir, that ought to have ſtood in the Court of Conſcience. My reaſon is, becauſe in the law of Nature, *Porcius* the ſon hath as much Natural right to inherit, as *Sempronius* the Father hath to make a Teſtament; and therefore although an Unſolemne Teſtament ſhall not be ſufficient to interrupt a Natural ſucceſſion, becauſe the rights of Nature on either hand are equal; yet the civil power can reſtrain his right when there is nothing complicated with it: for his own conſent is involved in the publike conſtitution, and he may conſent to the diminution of his own right, when no duty is infringed, that is, in thoſe things where onely his own rights are concerned.

13. When therefore any thing of the *law of Nature* is twiſted with *the right of Nature*, there is an obligation paſt which the civil conſtitution cannot annull. As if *Sempronius* command his ſon in an Unſolemne Teſtament, in private and without witneſſes to give ſuch a legacy to *Titius* his Nephew; although *Titius* cannot challenge it by vertue of that Teſtament, yet the ſon is bound to pay it by the law of Nature: for Civil conſtitutions have effect upon a meer right, but none againſt a duty of Nature: and therefore although the Teſtament of *Sempronius* ſhall not paſs into legal, external, judicial warranty, yet it binds the ſon, and is valid as to him by the law of Nature and Conſcience. And this was rarely well affirmed by *Pliny*: *Hoc ſi jus aſpicias, irritum; ſi defuncti voluntatem, ratum & firmum eſt; mihi autem defuncti voluntas (vereor quam in partem Juriſconſulti quod dicturus ſum accipiant) antiquior jure eſt.* If we regard the civil law ſuch Teſtaments are invalid; yet if we regard the will of the Teſtator it is firme: but though I know not how the Lawyers will take it, yet to me the will of the dead is to be prefer'd before the law: and more fully yet to *Antonianus*; *Tu quidem pro certa tua diligentia admones me, codicillos Attiliani, qui me ex parte inſtituit hæredem, pro non ſcriptis habendos, quia non ſunt confirmati Teſtamento, quod jus nec mihi quidem ignotum eſt, cùm ſit iis etiam notum qui nihil aliud ſciunt. Sed ego propriam quandam legem mihi dixi, ut defunctorum voluntates, etiam ſi jura deficerent, quaſi perfectas tuerer. Conſtat enim codicillos iſtos Attiliani Manuſcriptos: licèt ergo non ſint confirmati Teſtamento, à me tamen ut confirmati obſervabuntur.* Every one that knowes any thing knowes that in law Unſolemne Teſtaments are invalid: but I have another law of my own, if I know it was really the will of the Dead, I will verifie it though it want the ſolemnity of law: and this alſo was affirmed by *Innocentius*, ſaying, *Electionem quæ juri naturæ conſentit, licèt non ſerventur, juris ſolennitates tenere. cap. Quod ſicut: de election.*

Lib. 5. Ep. ad Calviſium.

Lib. 2. Epiſt.

14. And there is great reaſon and great piety in this ſenſe of the queſtion; For when a duty is any waies concerned, there is ſomething owing to God which no humane power can or ought to prejudice. For it is in Teſtaments where any duty of any one is engaged, as it is in contracts of marriage to which every one that can chooſe is capable of being naturally obliged: now the

relative of the obligation cannot in humane Courts claim either the advantage of an Unſolemne Teſtament, or Unſolemn and clandeſtine Contract, yet the relative who is oblig'd to duty cannot be ſo quitted: and therefore the Father can oblige a ſon in duty to perform an Unſolemn Teſtament; and every contracted perſon is bound to perform *privately* what the other cannot challenge *publikely*: and this is not obſcurely intimated by the law: *L. hac conſultiſsimâ C. de teſtam. Ex imperfecto autem Teſtamento voluntatem tenere defuncti non volumus, niſi inter ſolos liberos à parentibus utriuſque ſexus*, viz. *niſi liberi in ſola dividenda hæreditate voluntatem habeant patris*, ſaith the *Gloſs.*

15. And for the confirmation of all this, it is remarkeable that they who affirme an Unſolemne Teſtament to be utterly invalid, and that the law of Nature is no remedy in this caſe, yet affirme that it is of force in the matter of piety; as in donations to Churches, the poor, and pious uſes, as appears in *Imola*, *Ananus*, *Antonius Rubeus*, *Covarruvias* and others: which conceſſion of theirs could not be reaſonable or conſiſtent with their opinion, but that it is made ſo by the foregoing conſiderations; which certainly are the beſt *medium* to reconcile duty and prudence, the laws Natural and Civil, the right of a man with the Government of a Commonwealth, and to ſtate the queſtion between the two parties who earneſtly diſpute it to contrary purpoſes.

16. For although the queſtion is probably diſputed on both ſides: yet there are on either hand inſtances in which the ſolemnity of the law does, and does not oblige reſpectively: which ſhewes that the probability is on either hand right and true; and the thing as it lies in the middle hath nothing certain or reſolv'd; but is true or falſe as it partakes of differing reaſons. Now the reaſon of the whole is; becauſe the ſolemnity of law is wholly to be regarded where there is not a bigger obligation; where God hath not bound, and Man hath bound, Man is to be obeyed: but where God hath bound *directly*, there God is to be obeyed whatever be pretended by Men: but if God hath onely bound *indirectly* and *collaterally*, as if it be a caſe favourable and pious, there the ſolemnity of law which is againſt it, is not to prevail; but yet is to prevail in the behalf and proſecution of it.

17. Thus if a Pupil makes a contract in his minority to his ruine, or ſignal detriment: he is to be releeved by the advantage of the civil law which makes his contract invalid, becauſe the perſon is declar'd incompetent; and he may lawfully take his remedy; and is not bound by the law of Nature to verifie it: becauſe he being leſs naturally capable to contract, the other is by the law of Nature bound not to doe him injury, and take unequal advantages when every man hath equal right: and therefore if he does prevaricate the Natural law of juſtice which is equality, he alſo may loſe the privilege which the others action paſs'd unto him; for the civil law declaring that Minors ſhall not be prejudic'd, makes up that juſtice or equality which Nature intends. For the Minor with his leſs portion of Underſtanding, and the defenſative and retreat given him by the civil law is made equal to the Contractor who is perfect in his Natural capacity. Equality muſt be done and had. And this is one way of inferring it.

18. Another way is, If the Minor receives advantage by the bargain; then there is equality; for the want of his Natural capacity is ſupplyed by the advantageous matter, and therefore ſuch contracts are valid though the one of the Contractors be legally incapable. But

3. If

19. 3. If the bargain give ſome advantage on either ſide, the Minor muſt not take the advantage offer'd him by the civil law to himſelf, unleſs he allow to the other his ſhare of advantage in the bargain: for otherwiſe there is inequality. But

20. 4. Neither one nor the other is to be done, nor the Contract to be reſcinded if the perſon was Naturally capable, that is, unleſs it be apparent by the Conſciouſneſs of his own weakneſs, or the iniquity and folly of the contract that he was leſs in Nature then the other; and therefore in this caſe the civil law reſcinding the Contract of the Minor does declare that he is incapable *naturally* as well as *civilly*: and the Civil conſtitution does no way interfere with the Natural, but Miniſters to it; making the *natural inſtance* even with the *Natural reaſon*: for this being alwaies alike, from the firſt to the laſt, the inſtance growing from imperfection to perfection, muſt in the progreſſion be defended and ſupplied and be fitted to the other.

21. But in General, the Rule is true which *Panormitan* affirmes in proſecution of what I have now diſputed; *Quando jus civile aliquid diſponit contrà jus Naturæ, ſtandum eſt juri Naturæ*: and in particular to this very inſtance of Unſolemne Teſtaments P. *Alexander* 3. being asked whether according to the cuſtome that was in the Dioceſs of *Oſtia* a Will could be valid which was not atteſted by ſeven or five witneſſes at leaſt, gave in anſwer, *cap. cum eſſes. de teſtis: tales leges à Divina lege & Sanctorum Patrum inſtitutis & à generali Eccleſiæ conſuetudine eſſe alienas; & ideo ſtandum eſſe contra illas juri Naturali, ſecundùm quod in ore duorum aut trium ſtat omne verbum.* Which words of his I onely admit ſo far as they are agreeable to the former meaſures and limitation. For that a word is true under the teſt of two or three witneſſes is not a prohibitive law or command of Nature; but it was urg'd by our B. Saviour to the Jews as a thing admitted in their law, and it is agreeable to the law of Nature; but yet not ſo, but that a greater caution may be in ſome caſes introduc'd by the civil conſtitution, as I affirm'd above *: *viz.* when the innocent and equal ſtate of Nature to which ſuch ſimplicity or ſmall duplicate of teſtimonies were ſufficient, becomes chang'd by frauds and artifices of evil men, or new neceſſities are introduc'd which Nature did not foreſee and therefore did not provide for, but God hath provided for them by other means, even by a power given to the Civil Magiſtrate. * Rule 16. n. 21.

22. Laſtly, to make up the meaſures and cautions of this diſcourſe compleat, it is to be added; that when the civil laws annull an Unſolemne Contract or Teſtament: it is meant, that ſuch are to be declar'd null when they come into judgement; not that the action, or tranſlation of any dominion, inheritance or legacy is *ipſo facto* void: and therefore he that is poſſeſs'd of any ſuch is not tied to make voluntary reſtitution, or to reveal the nullity of the donation, but to depart from it, when he is requir'd by law: for he hath the advantage of a Natural right or power in the donour, and that being firſt muſt ſtand till it be reſcinded by a competent power; for the whole queſtion being but probable on either ſide, the poſſeſſour or the Donee hath the advantage till a ſtronger then he comes and takes away that in which he truſted.

Rule 6.

Sins againſt the laws of Nature are greater or leſs, not by that proportion, but by the greatneſs of the matter, and the evil conſequent, or the malice of the ſinner.

1. THis rule is intended to remedy a great error that is in the World and prevails very much to the abuſe of Mens perſwaſions in many caſes of Conſcience; *viz.* that all ſins which are *Unnatural* are the worſt: and to be a ſin *againſt Nature* is the higheſt aggravation of it in the world: which if it were true in *theſi*, yet becauſe when it comes to be reduc'd to practice it is wrap'd up in uncertain notices, it ought to be more warily handled. For when Men have firſt laid huge loads of declamations upon all *Natural rights*, and *Natural wrongs*, and then endeavour'd to draw forth a collective body of Natural laws, and they have done it by chance or as they pleaſe, they have put it within their own powers to make what things they liſt as execrable as *murder* or *blaſphemy*; without any other reaſon, but that they have called them *Unnatural ſins*.

Concerning which theſe things are conſiderable:

2. 1. All ſins againſt Nature are no more the moſt deteſtable then all ſins againſt God: becauſe if the *Kind* of ſins, or the *General reaſon* or *object* of its irregularity were all that were conſiderable in this, nothing could be the aggravation of a ſin more then this, that it were *againſt God*. Now becauſe all ſins are againſt God, and yet amongſt them there is difference, the greatneſs of this appellative is not the onely thing that is conſiderable. But this is, that as all ſins are againſt God, ſo all are *againſt Nature*, ſome way or other: and the reaſon that concludes againſt every ſin is that reaſon that is common to all wiſe men; and therefore it muſt be alſo *Natural*: I doe not mean, taught us without the help of revelation or inſtitution, but ſuch as all men when they are taught, find to be really, and in the Nature of *things ſo conſtituted*, to be reaſonable.

3. All voluntary pollutions are ſins againſt Nature; becauſe they are ſatisfactions of luſt in waies otherwiſe then Nature intended: but they are not all of them worſe then adultery or fornication. For although all ſuch pollutions are beſides natures proviſions and order: yet ſome of them are more ſingle evils then fornication; which although it be againſt Nature too, becauſe it diſhonours the body, yet it is by Name forbidden in the Commandement, which ſome of the others are not, but come in by conſequence and attendance: and fornication includes the crime of two, which the other does not alwaies; and it is acted with more vile circumſtances and follies, and loſs of time, and other foul appendages. It is ſaid to be againſt Nature to approach a woman during her Natural ſeparations. But if it be a ſin (which I ſhall conſider in its due place) yet it is of the ſmalleſt conſequence and malignity; ſo that for a ſin to be *againſt Nature*, does onely denote its *material part*, or *the body* of it; but does not alwaies ſuperinfuſe a venome and ſpecial malignity, or greatneſs of crime into it, above other ſins. But it is according as the inſtance is. * Every ſin againſt the duty we owe to our parents is *Unnatural*: but they have their heightnings and diminutions from other accounts, and in this they have variety.

* And

* And it is obſervable that there were ſome laws made concerning ſome of theſe and the like inſtances in the judicial law of *Moſes:* but none in the Moral: and therefore that the irregularity in ſome of theſe caſes though it hath met with a foul appellative, yet is to be eſtimated by more certain proportions then ſuch caſual appellations.

4. 2. The *breach of a Commandement* is a ſurer rule to judge of ſins then the doing againſt *a Natural reaſon*. For there are many things which are Unreaſonable which are not Unlawful: and ſome things which are in ſome circumſtances reaſonable, but yet in the law forbidden and irregular: ſuch are all thoſe things which are permitted for the hardneſs of our hearts. So was Polygamy to the Patriarchs, and to the Jewes. So is the breach of laws by an Univerſal deficiency of the people; which though it be infinitely Unlawful, yet for the Unreaſonableneſs in puniſhing all, it becomes permitted to all. Therefore to eſtimate the goodneſs or badneſs of an action by its being reaſonable or unreaſonable is infinitely fallacious, unleſs we take in other meaſures. It is unreaſonable that a man ſhould marry when he is fourſcore yeers old, but it is not unlawful. It is unreaſonable for an old man to marry a young maiden, but I find no ſin in it. Nothing is more againſt Nature then to marry *June* and *December*; and it is Unnatural to make productions by the mixture of an horſe and an aſs; and yet it is done without ſcruple. But in theſe and the like caſes, the Commandement and nothing elſe is the meaſure of right and wrong.

5. 3. When the Meaſure of the Commandement is obſerved, the degree of the ſin is not to be deriv'd from the greatneſs nor ſmalneſs of its Unreaſonableneſs in its own Nature, nor yet by its contradicting a *prime* or a *ſecondary reaſon*.

The reaſon of the firſt is, becauſe there are no degrees of reaſon in the Nature of things. Reaſon is an indiviſible thing, ſimple as the Underſtanding; and it onely receives increaſe by numbers, or by complication with matter and relations. It is as Unreaſonable to think a thought againſt God, as to kill a man. It is as Unreaſonable and Unnatural to ſpeak againſt experience, as againſt a neceſſary propoſition: againſt a truth in Mathematicks, as againſt a truth in Scripture; and in the proper natural reaſon of things there can be no difference in degrees, for a truth increaſes not, neither can it decreaſe.

* *The reaſon of the ſecond is*, becauſe that a reaſon is prime or ſecondary is accidental to the caſe of Conſcience, or to the efficacy of its perſuaſion. For before contracts were made or dominions diſtinguiſh'd, it was a prime truth that ſuch things as every one ſeiz'd on were his own by the priority of title. It was a ſecondary truth, that every one was to be permitted to his right for which he hath contracted, and which is in his poſſeſſion. Now theſe reaſons are prime or conſequent according to the ſtate of things to which they are fitted, but the reaſon from thence receives no increment, nor the fact any alteration.

6. And this is alſo true whether the reaſon be known to us with or without a teacher. For the higheſt truths of God are ſuch as are communicated by revelation; and it is all one whether God teaches us by Nature or by Grace, by diſcourſe or by experience. There is this onely difference, that in ſuch truths which are taught, ſome men can have an excuſe becauſe all are not alike inſtructed in them; but in thoſe things which are borne with us, or are conſented to as ſoon as ſpoken, it cannot be ſuppoſed but all men (that are not fools) know them; and therefore they can have no pretence

of

of ignorance in such cases: So that sins against *prime* or *secondary* truths, against truths *Original* or *Consequent* truths *born* or *taught* doe not differ in the nature of the things, but may cause an accidentall difference in the person, and may take from him the excuse of ignorance, and so make the man more sinful, but not the action in it self and in its own Nature worse.

Rule 7.

Actions which are forbidden by the law of Nature either for defect of power, or for the incapacity of the matter, are not onely unlawful but also void.

1. THIS is true in contracts, and acts of donation, in vowes and dedition, and all rely upon the same reason. He that cannot give, and he that cannot be given cannot contract or be contracted with. *Titius* intends to marry *Cornelia*'s servant, because he desires to have children, and to live comfortably with the wife of his youth. He does so; and in their first access he finds her whom he thought to be a woman, to be an Eunuch; and therefore not a person capable of making such a contract: she did ill in contracting, but she hath done nothing at all besides that ill, for the contract is void by the incapacity of the person.

2. Upon this account the Lawyers amongst the causes of the Nullities of marriage reckon *Error personæ*, the mistake of the person; though certainly this is not to be extended beyond the meer incapacities of Nature, if we speak of Natural nullities. Thus if I contract with *Millenia* whom I suppose to be a Lady, and she proves to be a servant, or of mean extraction, though if she did deceive me she did ill in it; yet if she could naturally verifie that contract, that is, doe all the offices of a wife, the contract is not naturally void; whether it be void upon a civil account is not here to be enquired: but by the law of Nature it is void, onely if by nature it cannot be consummate. For by a civil inconvenience or mistake the contracts of Nature cannot be Naturally invalid; because that is *after Nature* and of another consideration, and of a different matter. For that a mans wife should be rich, or free, is no more of the necessity of the contract of Marriage, then it is that she should be good natur'd, or healthful: with this onely difference, that *if a man contracts* upon certain conditions, the contract is void if the conditions be not verified; and for those things which are *present* and *actual* he can contract, but not for what is *future*, *contingent* and *potential*. A man may contract with a maiden to take her for his wife if she be free, or if she have such a portion; but not upon condition that she shall be healthful for seven years. Because whatever condition can be stipulated for must be actual before consummation of the Marriage: afterwards it is for better or worse: the want of any such condition is not so great an evil to the man as it is to the woman to be left after she is dishonour'd. So that if it be a thing which *can* be contracted for, and be *actually* contracted for, in the destitution of the condition the contract is void. But if there be no such expres stipulation made, there is nothing can be made a nullity by nature, but that which is a natural incapacity: and therefore if a Gentleman con-

contracts with a ſlave whom he thinks to be a free woman, with a baſtard whom he thinks to be legitimate, with a begger whom he thinks to be a great Heireſs, the contract is Naturally valid; becauſe there is in it all the Natural capacity; if ſhe be a woman, if ſhe can be a wife, and can be his, there is no more requir'd to a verification of the contract in the law of Nature. By the way I deſire it be obſerved that to ſeparate or diſannull a contract is not the ſame thing with declaring it to be null of it ſelf or from the beginning. The reaſon why I inſert this here is leſt the explication of the Rule ſeem infirme upon the account of other inſtances: For if a man marries a woman whom he took for a maid and ſhe proves not to be ſo, by the *Moſaick law* ſhe was to be ſeparated by death or divorce: but this is not a nullity: but a divorce may be for that cauſe which was in being before the marriage as well as for the ſame reaſon after.

3. The other natural cauſe of invalidity is when the contract is made by him who had no power naturally to make it. This happens in caſe of precontracts. *Spurius Feſcennius* woes a Greek Virgin, and obtaining her conſent contracts himſelf to her, and promiſes to marry her within a certain limited time. But before the expiration of that time *Publius Niger* dies, and leaves his widow young and rich and noble; which advantages *Feſcennius* obſerving, growes in love with them and in a ſhort time quits his pretty Greek, and marries the rich Roman Lady. But being troubled in Conſcience about the fact inquires what he hath done, and what he ought to doe: and he was anſwer'd thus, If he was married to the Greek, he muſt return to her if ſhe will receive him, and quit his new lady; becauſe he was not a perſon capable to contract with her being married to another: a dead man may as well marry as that an Husband can marry to another, and quit that which had poſſeſs'd all his former power. For in all moral actions there muſt be a *ſubſtantial, poteſtative* principle that muſt have a proportion'd power to the effect; a thing cannot be done without a cauſe and principle in morality, any more then in Nature. If a woman goes about to conſecrate the holy Sacrament, it is χεὶρ ἄκυρος, it is an ineffective hand, ſhe ſins for attempting it, and cannot doe it afterwards; and it were wiſer and truer if men would think the ſame thing of their giving baptiſme, unleſs they will confeſs that to baptize children is a meer natural and ſecular action to which Natural powers are ſufficient; or that women have received Spiritual powers to doe it; and that whether a Prieſt, or a Woman does it is no difference, but matter of order onely. If an effect be ſpiritual, the agent muſt be ſo too, if the effect be gracious and precarious, ſo muſt the active cauſe; Thus it is in contracts, and donations, which cannot be done without the power of him that does it. But he who hath already given away his power, hath none to act withall: *he cannot doe one action twice.*

4. But this is to be underſtood onely after the actual ceſſion of the power and active principle; not after promiſes but after poſſeſſion. Therefore if *Feſcennius* was onely contracted or promiſed for the future though he ſin'd grievouſly in afterwards contracting with the other, yet it is valid. For a promiſe takes not away our dominion in a thing, but obliges us to uſe it in a certain manner. *Bartolus* appoints his Coſen *Ancharanus* to be his Proctor at a Synod, and promiſes that he will not revoke the deputation: but afterwards does; he is a breaker of promiſe; but the revocation is good. So it is in Teſtaments, and ſo in promiſes. For, if after promiſe we have no right in the thing which we have promis'd, then we have no power to performe it; but if we have a right, then the after act is valid, becauſe it hath a natural poteſtative cauſe; but if the

the power be paſt from us, as if *Feſcennius* were married to the Greek, he had not himſelf to give; for as he in the Comedy ſaid of ſervants

Τῷ σώματι γὰρ οὐκ ἐᾷ τὸν Κύριον
Κρατεῖν ὁ Δαίμων, ἀλλὰ τὸν ἐωνημένον.

The man hath not power over his own body, but the Maſter hath; ſo hath the wife over the Husband, and therefore he hath nothing now to give, and if he does, he does nothing; the man loſes his honeſty, but the wife does not loſe her right. But of the inſtance I am to ſpeak in its own place. Here onely I am to conſider the general Rule and its reaſon.

Rule 8.

When an act is forbidden by the law of Nature for the turpitude and undecency that it hath in the matter of the Action, the act is alſo void when the turpitude remains or hath a perpetual cauſe.

1. He that contracts a marriage with his Fathers wife, or any marriage, in which every illicite act is a new ſin, hath not onely ſin'd in making the contract, but the marriage is void by the law of Nature; and the reaſon is, becauſe no man can bind himſelf to ſin; ſo that here alſo there is a defect of power: no man can bind himſelf againſt God; and the *law of Nature* whoſe prime rule is *to doe good and to eſchew evil* cannot verifie an act which prevaricates her greateſt principle. Nature cannot give leave to ſin againſt Nature; it were a contradiction: for then the ſame thing ſhould be according to Nature and not according; and this is expreſsly affirm'd in the law; *Quod leges prohibent, ſi perpetuam cauſam ſervaturum eſt, ceſſat obligatio: ut ſi ſororem ſibi nupturam aliquis ſtipuletur.* He that promiſes to marry his ſiſter is not bound to verifie it, and if he have done it he is bound to quit her, becauſe every act of conjunction with her is inceſtuous, and a ſtate of ſin cannot be conſented to, nor verified by Nature who is an eſſential enemy to it.

L. Si ſtipuletur. de verb. oblig.

2. This is to be underſtood onely in things forbidden by the law of Nature, the Eternal law of God, or his poſitive temporary law; but is not true in things forbidden onely by men: the reaſon of them both is, becauſe no man hath power to contract againſt *a Divine law*: but if he have contracted againſt *a humane law*; his contract is eſtabliſhed by a Divine law, and is greater then the humane; where the Divine does not intervene by ſome collateral intereſt. The law of the Church of *Rome* forbids ſome perſons to contract marriage; and yet if they doe the contract is valid; becauſe the perſons being Naturally or by Divine law capable of contracting, they onely ſin'd who entred againſt law or leave, but they ſin'd then onely; for the after actions being no ſins, cannot be invalidated.

3. And yet if the contract be made againſt a Divine law, it is not invalid, unleſs the Divine law have a perpetual influence upon the ſtate, or renewed actions. If a Jew did buy and ſell upon the Sabbath he ſin'd againſt a Divine law; but his contract is valid. He that contracts with a woman of fornicati-

ons

tions and lies with her for a price, hath ſin'd in ſo doing, but is bound to pay her the price of her luſt: becauſe nothing here is againſt the Divine law but the fornication; but the contract being extrinſecal to the Nature of the ſin, is not made null by that ſin: but that which is intrinſecally evil, is for ever ſo, and therefore muſt be broken in pieces.

4. In all other caſes, whatſoever is forbidden by the law of Nature is a ſin if it be done, but it is valid and effective to all purpoſes of that law. It is againſt the law of Nature to take a great price for a trifle, but if it be contracted for it muſt be paid. If a theef makes me promiſe to pay him 20 l. the next day; though he ſin'd againſt a Natural law in doing me that violence, and exacting of me that promiſe, yet the ſtipulation muſt ſtand.

The ſumme is this; Where ever there is *power*, and *will*, and in the permanent effect *conſonancy to the prime meaſures of Nature*, there the actions are valid, though they entred at the wrong door.

But, *He that wants power*, let his will be never ſo ſtrong, it effects nothing without: it is juſt like the King that commanded the waves of the Sea not to come to the foot of his chair; they came for all his will to the contrary.

He that wants will, wants alſo an integral part of the conſtitution of the act, and does nothing.

But *when he hath* a Natural and legal power, and an effective will, yet if the whole ſtate or the after-actions dwell in ſin, it cannot be permitted by Nature, but muſt be turned out of doors.

RULE 9.

The law of Nature can be diſpenſed with, by the Divine power.

Vide reg. 1. n. 43, 44. &c.

1. I Am willing publikely to acknowledge that I was alwaies ſince I underſtood it, a very great enemy to all thoſe queſtions of the School which inquire into the power of God: as whether by Gods abſolute power a body can be in two places: whether God can give leave to a man to ſin: and very many there are of them to as little purpoſe. But yet here I am willing to ſpeak in the like manner of expreſſion, becauſe the conſequent and effect of it goes not to a direct inquiry concerning the Divine power, for it intends to remonſtrate that becauſe God does actually diſpenſe in his own law, this prime law of God, or the law of Nature is nothing elſe but the expreſs and declar'd will of God in matters proportionable to right reaſon and the nature of Man.

2. But in order to the preſent inquiry; it is to be obſerved that Gods diſpenſation is otherwiſe then Mans diſpenſation; 1. *God is the ſupreme Lawgiver*, and hath immediate power and influence over laws, and can cancell *theſe*, and impoſe *thoſe*, new or old as he pleaſe. By this power it is that he can relaxe to particular perſons their perſonal obligation *quoad hic & nunc & ſic*; and if he does, the law ſtill remaining in its force and power to other perſons and in other caſes, this is properly *diſpenſation*. 1. 2. *God is the ſupreme Lord*, and can transfer dominions and take away Kingdomes, and give them to whom he pleaſe; 2.

pleaſe; and when he makes ſuch changes, if he commands any one to be his Miniſter in ſuch tranſlations, he does legitimate all thoſe violences by which thoſe changes are to be effected: and this alſo is a *diſpenſation*; but *improperly*.

3. 3. *God alſo is the ſupreme Judge*, and can puniſh and exauthorate whom he pleaſe, and ſubſtitute others in their room; and when he does ſo by command and expreſs declaration of his will; then alſo he diſpenſes in thoſe obligations of juſtice, or obedience, or duty reſpectively, by which the ſucceſſor or ſubſtitute, or Miniſter was hindred from doing that which before the command was a ſin, but now is none: and this alſo is another manner of diſpenſation. Some Doctors of the law are reſolved to call nothing *Diſpenſation*, but the firſt of theſe: and the other under another name ſhall ſignifie the ſame thing; but ſay they, He onely diſpenſes who does take off the obligation *directly*, by his *legiſlative* power without uſing his *judicative* and *poteſtative*, he who does it as an act of direct juriſdiction, not as a *Lord*, or a *Judge*, but as a *Lawgiver*: Now ſay they, God does never as a Lawgiver cancel or abrogate any law of Nature: but as a Lord he transfers rights, and as a Judge he may uſe what inſtruments he pleaſe in executing his Sentence, and ſo by ſubtracting or changing the matter of the laws of Nature, he changes the whole action. To theſe things I make this reply.

3. 1. That this is doing the ſame thing under another manner of ſpeaking, for when it is inquired whether the law of Nature is diſpenſable; the meaning is, whether or no that which is forbidden by the law of Nature may in certain caſes be done without ſin: but we mean not to enquire whether or no this change of actions from *unlawful* to *lawful* be that which the Lawyers in their words of art and as they define it call *Diſpenſation*: for in matters of Conſcience, it is pedantry to diſpute concerning the formes and termes of art: which Men to make their Nothings ſeem learning dreſs up into order and methods, like the dreſſings and paintings of people that have no beauty of their own: but here the inquiry is and ought to be more material in order to practice and caſes of Conſcience. For if I may by God be permitted to do that, which by the law of Nature I am not permitted, then I am diſpenſed with in the law of Nature, that is, a leave is given to me to doe what otherwiſe I might not.

4. 2. That the doing of this by any of the forenamed inſtruments or waies is a diſpenſation and ſo really to be called, appears in the inſtances of all laws. For if it be pretended that the Pope can diſpenſe in the matter of vowes, or a Prince in the matter of mariages; which are rate and firm by the law of nature; he cannot doe it by direct juriſdiction or by annulling the law which is greater then either King or Biſhop: for when a diſpenſation is given in theſe inſtances, it is not given but when there is cauſe: and when there is cauſe the matter is chang'd; and though the law remains, yet in a changed matter the obligation is taken off; and this is that which all the world calls diſpenſation, and ſo it is in the preſent queſtion; when God changes the matter or the caſe is pityable, or ſome greater end of God is to be ſerved, that is, when there is cauſe, God diſpenſes, that is, takes off the obligation. Here onely is the difference,

5. 3. *In Divine diſpenſations* God makes the cauſe; for his laws are ſo wiſe, ſo prudent, ſo fitted for all needs and perſons and all caſes that there is no defaillance or new ariſing caſe which God did not foreſee: but becauſe he hath ends of providence, of juſtice, of goodneſs or power to ſerve, he often introduces new cauſes of things, and then he gives leave to men to finiſh his de-

ſignes

ſignes by inſtruments which without ſuch leave would be unlawful. But in Humane diſpenſations the cauſe is prepared before hand, not by the Lawgiver, but by accident and unavoidable defect: for *without cauſe* diſpenſations are not to be granted; but in both the diſpenſation is not without the changing of the matter, that is, without altering the caſe. God does not give leave to any man to break a Natural law, as long as he keeps that Natural law in its own force and reaſon; and neither does a Prince or Biſhop give leave to any Subject to break any of his Laws when there is no need; for the firſt would be a contradiction, and the ſecond a plain ruine of his power, and a contempt to his lawes: Therefore in the ſumme of affairs it is all one; and becauſe actions generally forbidden by the law of Nature may by God be commanded to be done, and then are made lawful by a temporary command, which he made unlawful by Nature or firſt ſanction; this is a direct diſpenſing with ſingle perſons in the law of Nature. And to ſay it is not a diſpenſation, becauſe God does not doe it by an act of ſimple *juriſdiction*, but by the intertexture of his *dominative* and *Judicial power*, is nothing but to ſay that God having made a law agreeable to reaſon, will not doe againſt that reaſon which himſelf made, till he introduces a higher, or another. For while all things remain as was foreſeen or intended in the law, both divine and humane laws are indiſpenſable, that is, neither God in his providence, nor Men in the adminiſtration of juſtice and government doe at all relaxe their law. If it be ſaid, a King can doe it by his abſolute power, though it be unjuſt: I confeſs this God cannot doe, becauſe he can doe no wrong: but if God does it, his very doing it makes it juſt: and this a King cannot doe. But if the queſtion be of matter of power, abſtracting from conſiderations of juſt or unjuſt; there is no peradventure but God can doe in his own law, as much as any Prince can doe in his. When the matter is chang'd, the Divine law is as changable as the humane, with this onely difference, that to change the matter of a Divine Natural law, is like the changing of the order of Nature; ſometimes it is done by Miracle; and ſo is the law alſo chang'd, by extraordinary diſpenſation; but this although it can happen as often as God pleaſe, yet it does happen but ſeldome as a Miracle; But in humane laws it can and does often happen, and therefore they are to be diſpenſed with frequently: and ſometimes the caſe can ſo wholly alter, and the face of things be ſo intirely new, and the inconvenience ſo intolerable that the whole law muſt paſs away into deſuetude and nullity; which can never happen in the Divine Natural law; becauſe the reaſon of it is as eternal as Nature herſelf; and can onely be interrupted by rare contingencies of Gods procuring, as the order of Nature is by Miracle; but will revert, becauſe Nature will return into her own channel, and her laws into their proper obligation.

6. 4. But now to the matter of fact that God hath diſpenſed not onely by ſubtraction or alteration of the matter, but by direct juriſdiction, that is, as he is a *Judge*, and a *Lord*, and a *Lawgiver* even in all the waies in which diſpenſations can be made appears in ſeveral inſtances.

7. 1. That the marriage of one Man and one Woman is by the law of Nature, appears by the inſtitution of marriage, and by Chriſts revocation of it to the firſt ſanction. It was ſo from the beginning: and if any thing be a law of Nature, that is one by the conſent of all men: and yet *Moſes* permitted divorces, and God and *Moſes* his ſervant permitted Polygamy when there was no neceſſity, no change of the matter or of caſe, but only that men had a mind to it.

For if the conjunction of male and female was eſtabliſhed *in ſingulari conjugio* at the firſt, when there might be a greater neceſſity of multiplying wives for the peopling the world, then as the world grew more populous the neceſſity could leſs be pretended; therefore this muſt be an act of pure juriſdiction: the cauſes of exception or diſpenſation grew leſs when the diſpenſation was more frequent, and therefore it was onely a direct act of juriſdiction. Though I confeſs that to diſtinguiſh *dominion* from *juriſdiction*, and the power of a *Judge* from that of a *Lawgiver*, I mean when both are ſupreme, and the power of a *Lord* from them both, is a diſtinction without real difference: for as he is our *Lord* he gives us laws and *judges* us by thoſe laws: and therefore nothing is Material in this inquiry, but whether the action can paſs from unlawful to lawful; though becauſe the Lawyers and other Schools of learning uſe to ſpeak their Shibboleth, I thought it not amiſs to endeavour to be underſtood by them in their own way. So again, That brother and ſiſter ſhould not marry is ſuppos'd to be a law of Nature: but yet God diſpens'd with it in the caſe of *Cain* and his ſiſter: and this he did as a Lord or as a Lawgiver; he made it neceſſary to be ſo, and yet it was not neceſſary he ſhould make it ſo; for he could have created twenty men and twenty women as well as one: But that which is inceſt in others was not ſo in him; but there was no ſignal act of dominion or of Judicature in this, but it was the act of a free Agent; and done becauſe God would doe ſo; whether this be *juriſdiction* or *dominion*, let who can determine.

8. 2. But in ſome things God did diſpenſe by changing the matter, uſing that which men are pleas'd to call *the right of Dominion*. Thus God did diſpenſe with *Abraham* in the matter of the ſixt Commandement; God commanded him to kill his Son, and he obeyed, that is, reſolved to doe it, and will'd that, which in others would be wilful murder. Now God was Lord of *Iſaac*'s life, and might take it away himſelf, and therefore it was juſt: but when he gave *Abraham* command to doe it, he did not doe it but by diſpenſing with him, in that Commandement: It is true that God by his dominion made the cauſe for the diſpenſation; but yet it was a direct diſpenſation; and it is juſt as if God ſhould by his dominion reſolve to take away the lives of the men in a whole Nation, and ſhould give leave to all mankinde to kill all that people as faſt as they could meet them, or when they had a minde to it: And this was the caſe of the ſons of Iſrael, who had leave to kill the Canaanites and their neighbours. God diſpenſed with them in the matter of the ſixth and eighth Commandements: for it is not enough to ſay, That God as Lord of lives, and fortunes, had deveſted them of their rights, and permitted them to others: for that is not enough, that God as Lord hath taken away the lives and liberties and poſſeſſions of any man, or community of Men: for that act of dominion is not enough to warrant any man to execute the Divine decree; Nay though God hath decreed and declar'd it concerning a crime that it ſhall be capital, yet a man muſt have more then this to make it lawful to put that man to death. He muſt be a Miniſter of the Divine juriſdiction; he muſt have a power intruſted to him from God, and a Commiſſion to execute the Divine Sentence; and from hence it follows undeniably, that ſince the delegate power is a delegate juriſdiction and without this a man may not put a Capital offender to death; that therefore the ſupreme power from whence the delegation is commiſſionated is alſo a power of juriſdiction; and therefore if the words of their own Art are true, this leave given to doe that which without that leave were a ſin againſt the law of Nature, is properly and truly a *Diſpenſation*.

3. The

9. 3. The third way of dispensing is by applying the power of a Judge to a certain person or community, and by way of punishment to take from him what cannot be taken from him but by a superior power, or by the Supreme; Thus we are commanded by the law of Nature to give nourishment and to make provisions for our children; but if children prove rebellious and unnatural; God can command us to neglect that duty, and to expose them to the contingencies of fortune. It is by the law of Nature commanded to us to love and honour our Parents; to be loving and kind to our children: but if Parents inticed their children to idolatry, their children might lay their hands upon them and stone them to death. * It is a command and a prime rule of the law of Nature that we should doe as we would be done to: but even in this original rule and great sanction God did dispense with the Israelites, for they might not exact upon one another by Usury: but to strangers they might; what they hated to have done to themselves they were willing and expresly permitted to doe to others. In these and the like cases, although an act of *dominion* or *judgement* might intervene, yet that's not enough to warrant the irregular action; there must be an act of jurisdiction besides, that is, if God commands it or by expres declaration warrants it, then it may be done. Thus God as a Judge and being angry with *David* intended to punish him by suffering his Concubines to be humbled by his son in the face of all Israel, but though he did it justly; yet because *Absalom* had no command or warrant to doe what God threatned he was criminal. But *Jeroboam* and *Jehu* had commissions for what they did, though of it self it was otherwise violent, unjust, rebellious and unnatural, and therefore did need the same authority to legitimate it, by which it became unlawful. God often punishes a Prince by the rebellion of his Subjects God is just in doing it; but he hates the instruments, and will punish them with a fearful destruction unless they doe repent, in this case nothing can warrant the Subjects to strike, but an expres command of God.

10. Thus I conceive the thing it self is clear and certain; but for the extension of this, the case is yet in question, and it is much disputed amongst them that admit this rule in any sense, how many laws of Nature can be dispensed with: for if all, then the consequents will be intolerable; if not all, by what are they separated since they all seem to be establisht by the bands of Eternal reason. * Some say that the precepts of the second Table are dispensable, but not the first; But that is uncertain, or rather certainly false; for if God did please he might be worshipped by the interposition of an image; or if he essentially should hate that as indeed in very many periods of the world he hath severely forbidden it; yet the second Commandement and the fourth have suffer'd alteration and in some parts of them are exstinguished. * Others say that the *Negative precepts* are indispensable; but not the *affirmative*. But this is not true; not onely because every Negative is complicated with an affirmative; and every affirmative hath a Negative in the armes of it, but because all the precepts of the second Table, the first onely excepted, are Negative; and yet God can dispense with all of them as I have already prov'd.

11. But though it be hard to tell how far this dispensation and Oeconomy can reach, and to what particulars it can extend, because Gods waies are unsearchable, and his power not to be understood by us; yet since our Blessed Saviour hath made up a perfect Systeme of the Natural law, and hath

obtained to himself an everlasting kingdome, so that his law must last as long as the world lasts, and by it God will governe mankinde for ever; by the eternal reasonablenes and proportions of this law we can tell what is indispensable and what not: and the measure by which alone we can gues at it is this, *Every matter from whence the* ratio debiti, *or cause of the obligation can be taken is dispensable.* Now becaus God is supreme over all his creatures, and can change all their affairs, and can also choose the manner of his own worship, therefore in these things he can dispense.

12. But in that essential duty which his creatures owe to him the case is different; for though God can exact more or fewer instances of affirmative duty, these or others, yet there cannot be an alteration of the main relation; and of the intrinsick duty, and the intercours of the soul with God in the matter of the principal affections there can be no dispensation. It is eternally and indispensably necessary that we love God: and it were a contradiction that either God should command us to hate him, or that we could obey him if he did. For obedience is love; and therefore if we obey'd God commanding us to hate him, we should love him in hating him, and obey him by our disobedience.

13. Now if it be inquir'd to what purposes of Conscience all this inquiry can minister; the answer to the inquiry will reduce it to practice; for the proper corollaries of this determination of the question are these.

14. 1. That our duty to God is supreme; it is onely due to him; it cannot be lessen'd, and ought not upon any pretence to be extinguished; becaus his will is the onely measure of our obedience; and whatsoever is in Nature, is so holy for God and for Gods service, that it ought to bend, and decline from its own inclination to all the compliances in the world which can please God. Our reason, our Nature, our affections, our interest, our piety, our religion are and ought to be Gods subjects perfectly; and that which they desire, and that which we doe, hath in it no good, no worthines but what it derives from the Divine law and will.

15. 2. That in the Sanction of the Divine laws the reason obliges more then the letter: For since the change of the reason is the ground of all mutation and dispensation in laws, it is certain that the reason and the authority, *that* in the *thing*, *this* in *God*, are the soul and the spirit of the law: and though this must not be used so as to neglect the law when we fancy a reason, yet when the *letter* and *the reason* are in opposition, this is to be preferr'd before that. If the reason ceases it is not enough of warrant to neglect the law; unles a contrary reason arises, and that God cannot be served by obedience in that instance, but when the case is not onely *otherwise* but *contrary* to what it was before; let the design of God be so observ'd as that the letter be obeyed in that analogy and proportion. It is a Natural law that we should not deceive our neighbour: becaus his interest and right is equal to any mans else: but if God have commanded me to kill him, and I cannot by force get him into my hand, I may deceive him whom God hath commanded me to kill; if without such a snare I cannot obey the command of God. But this is but seldom practicable, becaus the reasons in all Natural laws are so fixt and twisted with the accidents of every mans life, that they cannot alter but by Miracle, or by an expres command of God; and therefore we must in the use of this Rule, wholly attend upon the expres voice of God.

3. It

16. 3. It hence alſo will follow, that if an Angel from Heaven, or any Prophet, or dreamer of dreams, any teacher and pretendedly illuminate perſon ſhall teach or perſwade to any act againſt any natural law, that is, againſt any thing which is ſo reaſonable and neceſſary that it is bound upon our Natures by the ſpirit of God and the light of our reaſon, he is not to be heard: for until God changes his own eſtabliſhments, and turns the order of things into new methods & diſpoſitions, the natural obligations are ſacred & inviolable.

17. 4. From the former diſcourſes it will follow, that the Holy Scriptures of the New Teſtament are the light of our eyes, and the intire guide of our Conſciences in all our great lines of duty; becauſe there our Bleſſed Lord hath perfectly regiſtred all the natural and eſſential obligations of Men to God and to one another: and that in theſe things no man can or ought to be prejudic'd; in theſe things no man is to have a fear, but to act with confidence and diligence: and that concerning the event of theſe things no man is to have any jealouſies; becauſe ſince all the precepts of Chriſt are perfective of our Nature, they are inſtruments of all that felicity of which we can be capable, and by theſe we ſhall receive all the good we can hope for: and that, ſince God hath by his holy Son declar'd this will of his to be laſting, and never more to be changed by any ſucceeding law-giver, we muſt reſt here, and know that no power leſs then God can change any thing of this, and that by this law we ſhall ſtand or fall in the eternal ſcrutiny.

RULE X.

The law of Nature cannot be diſpenſed with by any humane power.

1. THe reaſon is, 1. Becauſe Nature and her laws have both the ſame Author, and are relative to each other; and theſe as neceſſary to the ſupport and improvement of humane Nature, as nouriſhment to the ſupport of humane bodies: and as no man can create new appetites, or make hay or ſtones to be our nouriſhment; ſo neither can he make that our Nature ſhould be maintain'd in its well-being without theſe laws. 2. The laws of Nature being bound upon us by the law of God, cannot be diſpenſed withall, unleſs by a power *equal* or the *ſame*, or *ſuperior* to that which made the Sanction: but that cannot be at all; therefore neither can they be diſpenſed with at all, unleſs it be by God himſelf. 3. Natural laws are all the dictates of Natural reaſon; and he that diſpenſes with the law, muſt have power to alter the reaſon: which becauſe it can never be done but by ſuperinducing ſomething upon Nature greater then her own natural need, and none can doe this but God, therefore none but he can diſpenſe.

2. But becauſe wiſe men have publikely ſaid it, *Per jus Gentium & Civile aliquid detrahitur de jure Naturali*, By the law of Nations and the Civil laws ſomething may be diminiſhed from the law of Nature; it is to be conſidered what truth they could ſignifie by thoſe words: for unleſs by ſome inſtances of caſe they had ſeen it lawfull, it is not to be ſuppos'd it could have been by ſo wiſe perſons made ſacred. But the following meaſures are its limit.

L. Manumiſſiones, & l. jus civile. ff. de juſtitia & jure. & in Sect. jus autem. inſtit. de jure Natur. Gentium & civili.

3. 1. *Whatſoever is forbidden* by the Natural law cannot be permitted by the Civil; becauſe where the higheſt power hath interpos'd, there the infe-

rior and ſubordinate hath no authority: for all it hath being from the Superior, it cannot be ſuppos'd it can prejudice that from whence it hath all its being; for if it could be otherwiſe, then either the inferior muſt be above the ſupreme, or the ſupreme muſt ſubmit it ſelf to what is under it.

4. 2. *Whatſoever is commanded* by the law of Nature cannot be forbidden by the Civil law; for God who is here the Law-giver is to be heard; and he ſets up no authority againſt himſelf, nor gives any man leave to diſobey him. Theſe relie upon the ſame reaſons, and are deſcrib'd above.

5. 3. *That which the law of Nature hath permitted*, and no more, may be made up into a civil law, or it may be forbidden, according to that rule in the law, *Quod licitum eſt ex ſuperveniente cauſa mutatur*, That which is onely lawful by a ſupervening cauſe may be chang'd. For rights are before laws in time and Nature; and are onely ſuch licences as are left when there are no laws. Commands and prohibitions of Nature not being the matter of Civil laws, unleſs it be by way of corroboration; there can no laws be made in a Natural matter unleſs there be reſtraints or continued permiſſions of their firſt rights. For that which in morality we call *indifferent*, in Nature we call *a right*: that is, ſomething that is permitted me to doe or to uſe as I ſee cauſe for, is a thing upon which no reſtraint is made; that is, there is no law concerning it: but therefore the Civil law may reſtrain it, becauſe the liberty and its uſe may doe miſchief, and there is no law hinders it to be diſpos'd by men. For if I may by my private power or intereſt uſe any of it or deny my ſelf the uſe of it, much more may the Civil power doe it. I might not doe it my ſelf, if any law of God had forbidden me; but if no law of God hath forbidden, what can hinder but that the civil power may order it? Such are *Natural liberty, commnnity, powers of revenge, of taking any thing, of killing any man that injures me.*

6. 4. *That which is confirm'd* by the law of Nature, may by the civil power be altered and diſpenſed with: which happens in two caſes.

1. When the obligation ſuppoſes a foregoing act of the will, and is arbitrary in one of the terms of relation. *Titius* owes 1000 l. to *Caius*; and by the eſſential or Natural laws of juſtice is bound to pay him: but becauſe this ſuppoſes a private right in *Caius*, upon whom there is no reſtraint but he may uſe it, or let it alone; therefore *Caius* being at his liberty may refuſe to uſe his power of demanding the money of *Titius*, and forgive it him; and if he doe, *Titius*, although bound by the Natural law to pay him, is by the private power of *Caius* diſpenſed with. Becauſe in obligations as in arguments, if there be one leg that can fail, the concluſion is infirm. If one part can be looſed, the continuity of the whole is diſſolved.

2. The other caſe is like this, When the obligation is upon a condition, if the condition of it ſelf fails or be annulled by any juſt power or intereſt, the obligation which was introduc'd by the law of Nature can be reſcinded or diſpenſed with: for Nature binds and loſes according to the capacity of the things. It paſſes a temporal band upon temporal reaſons & neceſſities, & an Eternal band upon that whoſe reaſon can never fail, and where the neceſſity is indeterminable. And if a Natural law could bind longer then that reaſon laſts for which it did bind, then a Natural law could be unreaſonable, which is a contradiction. But then if the law does not bind in this caſe beyond the condition, then it is but improperly to be called a diſpenſation when it is relaxed:

laxed: but it is usual to call it so, and it is well enough; for it means this great direction to Conscience, that though the law of God be eternal, yet it's obligation may cease in the foregoing cases: For even Judges are said to dispense by interpreting the law, and applying that interpretation to particulars.

7. 5. *The civil law can extrinsecally change the Natural law.* For things may be alter'd or cease by an intrinsick or by an extrinsick cause. A Father ceases to be a Father when he dies, & he ceases to be a Father if all his children die: this alteration is by an extrinsecal cause; but to all effects and purposes it is the same as to the present case. Now although Nature cannot die, as Species doe not perish; yet Nature may change, as individuals may die: that is, if the matter of the law be subtracted, or so changed that it is to be governed with another portion of reason, then the law also must cease as to that particular. For as in the body of Man there is great variety of accidents & mutability of matter, but all that variety is governed by the various flexures of the same reason, which remains unchanged in all the complications and twistings about the accidents, & is the same though working otherwise: so it is in the laws of Nature, whose reason and obligation remains unchanged, even when it is made to comply with changing instances; but then it cannot but be said to change, even as Eternity it self hath successive parts by its coexistence with variety of times. *Trebonianus* swears to pay homage and acknowledgment for his *Villa* of *Ramola*, and the Royalties of *Panizza*, to his Landlord *Calander* and to his Heirs for ever: by the laws of Nature he is now oblig'd; but if *Calander* and his heirs be dead, or the land and possessions be alien'd, or swallowed up by an Earthquake, or drown'd in the sea, the law of Nature cannot bind him to that which is not, the matter of the obligation is subtracted, and therefore he is disoblig'd.

8. The summe is this: When Natural and prime laws are in prime & Natural instances whose matter is unchangeable, there the law of Nature cannot be prejudic'd by any but by the Lord of Nature: and the reason of this is no other but the necessity and constitution of Nature. God hath made it so, and it is so to be served, so to be provided for; and the law is a portion of the eternal law, an image of the Divine wisdome, as the soul is the image of the Divine Nature. But when the Natural laws are in a matter that can be prejudic'd, and doe presuppose *contract*, *cession*, *condition*, *particular states*, or *any act of will*, whose cause is not perpetual, the law binds by the condition of the matter; and the eternal law goes from its own matter as the immortal soul does from the body. Thus we say that *Gods gifts are without repentance*, and his love never fails, & his promises are for ever; and yet God does take away his gifts, & does repent of his loving kindnesses, & takes away his love, and will not give what he had promised: but it is not because he changes in himself, but the correlative of his actions and promises are changed.

9. So that now upon this account the whole question and practice about the Popes power in dispensing in the Natural law will appear to be a horrible folly without any pretence of reason; and the thing by its chiefest Patrons seems not at all to be understood. For since the rules of Nature are unalterable and Eternal, the laws being fram'd upon those rules complicated with matter, and persons, and events, is also eternal, excepting onely where the matter is or can be changed. Now if the matter be in prime instances, as the conjunction of Sexes, relation of Parents and children, *&c.* the law is

the ſame for ever; onely this, if the matter by a miracle or extraordinary act of God be changed, by the ſame power the law is to be changed: but as we ſay rivers and ſeas run for ever, and yet *Jordan* was open'd, and ſo was the Red ſea, and the perpetual courſe of the Sun and Moon was once ſtop'd, but it reverted when the extraordinary caſe was paſt; ſo it is in the law of Nature, which in the prime inſtances and Natural matter is as unalterable as the courſe of the Sun and Seas.

But 2. Sometimes the matter changes alone, or is chang'd to our hand, as *in conditional contracts*; and in this caſe the law ceaſes, and the obligation goes off as to that particular.

But 3. Sometimes the matter is changeable by the will of the intereſted perſons, and by none elſe but themſelves, and they who have over them the power which themſelves have; ſuch as God, and under him, the ſupreme humane power, their own princes. Now to apply this to the Queſtion of the Popes power in giving diſpenſations, I conſider that

1. To eſtabliſh his power upon any words of Scripture, is to pretend that his power of diſpenſing is an act of juriſdiction and direct authority, that is, that he hath commiſſion to doe it with or without reaſon or cauſe founded in the thing it ſelf, but onely becauſe he will; & he that does ſo, ſaies he can doe more then (as many of the moſt learned *Romane* Doctors ſay) God can doe: for he diſpenſes in the law of Nature in no caſe but when he changes the matter, in the prime or ſecond inſtances of Nature reſpectively, which when the Pope can doe he alſo may pretend to a commiſſion of being Lord of Nature: *But it is certain that for this there are no words of Scripture.* But 2ly, If this power of diſpenſing be ſuch as ſuppoſes the matter already changed, that is, that there is a juſt cauſe, which is of it ſelf ſufficient, but is not ſo to him who is concern'd, till it be competently declared, then all the diſpute will be reduc'd to this, whether he be the moſt probable Doctor: for to expound when a Natural obligation ceaſes, is not an act of power but of wiſdome; & that the Pope is the wiſeſt man, or the onely wiſe man, it is alſo certain that *there are no words of Scripture* to affirm it. But beſides this in caſes of this nature, there needs no diſpenſation, for the law ceaſes of its ſelf; as in contracts made upon condition, when the condition is not performed. In humane laws where the ſubject is bound more by the authority then the matter of laws, the law may ſtill be obligatory after the ceaſing of the reaſon or matter of the law; and ſo there may be need of diſpenſation: but we ſpeak here of laws bound on us by God and Nature, in which the very ceaſing of the matter of it ſelf diſpenſes with the law. But 3ly, If it be yet more then this, and that in a changeable matter, I mean in things that are not prime inſtances of Nature and of laſting neceſſity, but in humane contracts, promiſes, laws and vows, which depend upon the pleaſure and choice of men, but yet are corroborated by the law of Nature, he pretends to a power of altering the caſe ſo to make way for diſpenſation; then the pretence reaches to this, that the Pope muſt be Lord of *actions* and *fortunes*, and *the wills of others* and *the contracts of men*; that is, *in effect*, that no contract ſhall be valid unleſs he pleaſe; and no man ſhall chuſe for himſelf, or if he does he needs not ſtand to it; and no man can have a right transfer'd to him by a contract, but it can be reſcinded againſt the will of the intereſted perſon: and if he can have any ſuch power to doe thus much miſchief, then juſtice will be the moſt contingent thing in the world; and the queſtion will not be a queſtion of Theology, but of Empire, & temporal regard: *and therefore for this no words of Scripture can be pretended*, becauſe no words of Scripture of the New Teſtament ever did

transfer

transfer an Empire, or temporal power *to a ſpiritual perſon* for a ſpiritual reaſon: ſo that this will be a queſtion of war, not of peace and religion. To which I adde this by way of proviſion; That although ſupreme Princes have in ſome caſes power to reſcind contracts of their ſubjects and Parents of their children; yet this is onely in their own circuits, done by mutual conſent, in caſe of publick neceſſity or utility, of which by reaſon and the laws they are made competent Judges: which the Pope alſo may have in his temporal dominions as well as any other Prince: but this is not diſpenſation but the annulling of contracts or promiſes; it makes them not to be at all, not to ceaſe after they have a being, which is the Nature of diſpenſation, of which we now inquire. But the matter of this queſtion and the particular inſtance as it relates to the Biſhop of *Rome* is of another conſideration.

10. 6. *The civil law can adde to the law of Nature*; not onely new obligations by affixing temporal penalties; but by requiring new circumſtances to corroborate and conſummate an action: not that the civil law of a Prince or Republick can annull any thing which nature hath confirm'd, but it can hinder it from paſſing into a civil and publike warranty. Thus a clandeſtine contract is valid by the law of Nature; and in the Court of Conſcience there are witneſſes and Judges and executioners and laws and penalties to exact the performance of it: But when the civil or Eccleſiaſtick law hath commanded that in all contracts of marriage there ſhould be witneſſes, it muſt mean, that the contract ſhall not be acknowledged for legitimate unleſs there be; and therefore that the contract muſt be ſolemnly publiſh'd before it be *civilly firme*. No civil power can ſo enjoyne witneſſes as that if the contract be made without witneſſes it ſhall not be obligatory in Conſcience. For this obligation is before the civil law, and is bound by that power by which the civil power hath a being. But the civil power which cannot annull the act of Nature and Conſcience, can ſuperinduce ſomething upon it. It cannot make the contractors to goe back from what they have done, but to proceed to ſomething more, that what was firme in the inward may be confirm'd in the outward Court. By our laws the clandeſtine contract is *civilly* null before publication; but in our *religion* we beleeve it obligatory *in Conſcience*, and that it muſt come into *publication*. But by the laws of *Rome* the whole contract is nullified, and the perſons diſoblig'd, and the marriage after conſummation is diſſolv'd. This is againſt the law of Nature, but the other is a proviſion for it by additional ſecurity, that is, a taking care that the contracts of Nature may not be denied. *For the confirmation of a Natural contract nothing is neceſſary but a Natural capacity not hindred by the Lord of Nature.* Whatſoever therefore is ſuperinduc'd upon Nature cannot diſannul that to which all things competently neceſſary are ingredient, a condition brought in by a leſſe power cannot invalidate that which before that condition was valid: but as civil powers derive their authority from Natural laws and reaſon, ſo to theſe they muſt miniſter, and they may doe it by *addition and ſuperfetation*; but they may not violate them by *irritation*.

Rule II.

That the obligation to a Natural law does ceaſe in any particular, is not to be preſum'd by every one, but is to be declared by the publike voice.

1. THIS depends upon the foregoing diſcourſes and is Conſequent to them. For the ſeverall diſpenſations in the law of Nature being wrought by the change of their ſubject matter, *the rule* can never be chang'd; becauſe that is eternal and is abſtract from matter; but *the law* may be diſpens'd with, becauſe that is twiſted with matter which is not eternal. But then, becauſe the ſeveral matters of laws can be chang'd by ſeveral powers reſpectively, that power which alters the matter, and conſequently diſpenſes with the law, muſt by ſome evidence or other make the change apparent. If God by his power alters the caſe, and diſpenſes in the law, he alſo is to declare it: becauſe he muſt doe more; for he muſt give expreſsly a leave to doe proportionable actions: he having bound us to the law of Nature, leaves us ſo till he tells us otherwiſe: and the ſame alſo is the caſe if the matter be chang'd by man: for by the law of Nature we being bound to obey laws and performe contracts, muſt remain ſo bound till he that holds the other end of the ſtring lets it goe or tells us it is untied: becauſe he hath an intereſt in it, which muſt not depend upon the reaſon of another; but upon that which is common to both. For although we all agree that *every rule* of Nature is unalterable, and every law is to be obſerved, yet in every thing where a change can be pretended, every mans reaſon is equal; and therefore is not to be made uſe of in relation to others. For we all agree that theft is evil; but whether this action or this detention be theft, mens reaſons oftentimes cannot agree: and ſince every mans reaſon hath the ſame power and the ſame privilege, no mans ſingle reaſon can determine, becauſe there is no reaſon why yours more then mine. But therefore it is that there muſt be ſome common reaſon to declare the caſe, and the man to be at liberty, and the law to be looſe.

2. This hath no other variety in it, but this, that although the publike voice muſt declare concerning thoſe inſtances that concerne that matter of laws Natural which is in her keeping, as God is to doe in thoſe in which onely he hath immediate power; yet every private man can declare the obligation of a natural law to be loſe when he holds one end of the ſtring: If by a Natural law *Caius* be tied to doe me an act of kindneſs and Juſtice, it is my right; and as long as I will demand it, I hold the band of the Natural law in my hand: but if I let it goe, and will quit my right, the obligation is off, becauſe the matter is ſubſtracted. The reaſon of all is the ſame. No man is a good Judge in his own caſe where there is the intereſt of another twiſted with it: and it is unequal that my reaſon ſhould governe my neighbours intereſt; or that his ſhould governe mine: this would be an equal miſchief, and therefore ſomething indifferent to both muſt turne the ballance that there may be equal juſtice and equal proviſion. But if a man will quit his right there is no wrong done. He can ſufficiently declare his own will and acts of kindneſs, and then the law that combines with the matter, takes the ſame lot.

RULE 12.

The exactneſs of Natural laws is capable of interpretation, and may be allayed by equity, and piety, and neceſsity.

1. WHatſoever can be diſpenſed withall, is either diſpenſed with by an abſolute power of juriſdiction, or for ſome cauſe in the nature of the thing: and if the laws of Nature can ceaſe to oblige without reaſon, but by the will and the command of the Supreme, of God himſelf, much more may the ſame will and power doe it when there is alſo a reaſon: and if there be a reaſon to take off the obligation wholly in ſome particulars, then much rather may there be a cauſe to take off ſome part of the exactneſs upon a proportionable cauſe; If it may be *diſpenſed with*, it may alſo be *interpreted by equity*; for *this* is leſs then *that* in the ſame kind. Every man is bound to reſtore his neighbours goods when they are demanded; but if he calls for his ſword to kill a man withall; there is equity in this caſe, and I am not guilty of the breach of the Natural law if I refuſe to deliver him the ſword when he is ſo violent and paſſionate. To pay debts is a Natural law; but if a rich man calls for a ſum of money which is his due, and I by paying him to day ſhall be undone, and he by ſtaying till next week ſhall not be undone, I doe not break the law of Nature if I detain the money a little longer and offer him ſatisfaction for the wrong, if he have received any. I promiſed my brother to ſee him upon the Ides of March; in my journey to him I broke my leg: now though I by the Natural law am bound to performe promiſes; and it is poſſible that for all my broken leg, I might get to him by the time, yet there is equity in it and piety that I forbear to goe with ſo great an inconvenience. *Surgam ad ſponſalia quia promiſi, quamvis non concoxerim, ſed non ſi febricitavero: ſubeſt enim tacita exceptio, ſi potero, ſi debebo:* ſaid *Seneca.* There is an equity and a reaſonableneſs in all theſe things. *Effice ut idem ſtatus ſit cùm exigitur, qui fuit cùm promitterem,* If the caſe be when I am to performe as it was when I promis'd, then I am bound *pro rata portione*; that is,

2. 1. *If it become impoſsible, I am wholly diſoblig'd.*

3. 2. *If it become accidentally Unlawful; I am diſpenſed with.*

4. 3. *If it become intolerably inconvenient, I am in equity to be relieved.* For in theſe caſes it is no breach of promiſe, but I am juſt if I deſire to doe it, and in the degree in which I am diſabled, in the ſame I am to be pitied. *Deſtituere levitas non erit, ſi aliquid intervenerit novi. Eadem mihi omnia præſta, & idem ſum.* It is not levity when I am the ſame, but my powers and poſſibilities are chang'd or leſſened. L. 4. de benef.

But this is to be underſtood and practis'd with theſe limitations:

5. 1. Not every change of caſe can excuſe or leſſen, or alter the obligation, but ſuch a change as makes the perſon pityable, or the thing more vexatious to the doer, then it could be of advantage to the other.

6. 2. If the cauſe does not continue, the firſt equity does not diſannul the obligation, but defers it onely, and it returnes when the cauſe ceaſes.

3. The

7. 3. The obliged perſon as he is not wholly diſoblig'd for the time, ſo neither for the thing it ſelf; for if it be matter of intereſt, though without violation of Natures law it may be deferred, and does not bind the man to a guilt, yet it does to a new duty, the duty of giving ſatisfaction to him who ſuffered injury: for ſince in the law of Nature all mens rights are equal, it is unnatural and unjuſt that to one there ſhould be remiſſion and eaſe and to the other a burden. For no man is to be better by the hurt and injury of another.

8. 4. If the cauſe be leſs, or if it be more, it ought not to be done unleſs an interpretative leave be juſtly or reaſonably preſum'd. In a great matter every man is preſum'd ſo charitable as to be willing to comply with his Brothers need or ſad accident. But if it be leſs, then the *interpretative leave* muſt be preſum'd upon the ſtock of friendſhip or experience, or ſomething upon which wiſe men uſually relie. Onely in this caſe, the preſumption ought to be leſs confident, and more wary.

9. This rule is to be underſtood principally in matters of *juſtice*, and relative entercourſes: for in matters of *religion* and *ſobriety* the caſe is different: becauſe *in Natural religion* and *natural meaſures of ſobriety* which are founded *in prima natura* in the very conſtitution of mans ſoul and body, in the firſt laws of God, and the Original Oeconomy of the body; the matter is almoſt as unalterable as the Rule.

CHAP. II.

Of the Law of Nature, or of all Man-kinde,

As it is commanded, digeſted, and perfected,

By our Supreme Lawgiver

JESUS CHRIST.

viz.

Of the Chriſtian law, the great Rule of Conſcience.

Rule I.

When the law of Jeſus Chriſt was eſtabliſhed, the old Teſtament, or the law of Moſes did no longer oblige the Conſcience.

1. THE Doctors of the Jews ſay that at the command of a Prophet, that is, of one that works miracles, it is lawful to break any Commandement, that onely excepted, which is concerning the worſhip of one God. Thus at the command of *Joſhua* the children of Iſrael brake the precept of the Sabbath at *Jericho*, and *Samuel* and *Elias* offer'd ſacrifice in places otherwiſe then the

Talmud. tit. de Synedrio. Joſh. 6. 1 Sam. 7. 17. & 13. 8.

the law appointed, and the Prieſts in the Temple did kill beaſts and labour'd upon the Sabbath and yet were blameleſs: and *Circumciſio pellit Sabbatum*, was their own Proverbe, on the Sabbath they circumcis'd their infants; and the Prophet *Jeremie* was author to the Jewes *in ſecunda domo*, that is, after they were taken captive that they ſhould change their computation by moneths, and not begin with Niſan. 1 King. 18 38.

2. For God being the ſupreme Lawgiver hath power over his own laws; as being a Creator he hath over his own creation: He that gave being can take it away: and the law may be changed though God cannot. For God is immutable in his attributes, but his works have variety, and can change every day; as light and darkneſs ſucceed each other, and ſummer and winter, and health and ſickneſs, and life and death, and perfect and imperfect; and he that commanded all men not to kill, might give a commandement to *Abraham* that he ſhould kill his ſon, and when he had eſtabliſhed the law of *Moſes*, it was in his power, without any imputation or ſhadow of change to give the world a New law, and a better.

3. To this purpoſe our Bleſſed Lord was indued with power from on high to give a new law; for he was a great Prophet, and did many and mighty miracles, and advanc'd the Spiritual worſhip of the only true God; and brought men from childiſh and imperfect uſages, to the Natural, Spiritual, Manly and Perfective manner of worſhipping God; and therefore it was neceſſary that a change ſhould be made: for in *Moſes* law the rites were troubleſome and imperfect, chargeable and uſeleſs, not able to waſh away ſins, nor to perfect the Spirits of the Saints; it exhibited nothing ſubſtantial, but by ſhadows pointed at the ſubſtance to be revealed afterwards: it was fitted to the weakneſs of imperfect people, and in ſome very great inſtances was exceeded by the lives and piety of ſome excellent perſons, as *Moſes* and *David*, who by humility, meekneſs, forgiveneſs and charity did acts of piety beyond the precepts of the law, and many did not divorce their wives, and yet by their law, all were permitted to doe it: for it might be ſaid of *Moſes* as by the lawgiver of whom *Origen* ſpeaks, who being asked if he had given to his Citizens the beſt laws; he anſwer'd, ὅτι ἐ τὰς καλλίστας, ἀλλ' ὧν ἠδυνάτο τῆς καλλίστας· not abſolutely the beſt, but the beſt he could, conſidering the incapacity and averſeneſs of his citizens: ſo did *Moſes*; he gave a better law then ever was before, and the beſt which that people and the ſtate of things could then bear: but it was but for a time, and the very Nature of the law required a better to ſucceed it, and therefore he that came and gave a better was not to be rejected, becauſe he diſannul'd the worſe: εἰ ὄ ἔστι πρὸς τὸν κατὰ φύσιν λεγόμενον μέσον βίον ἀφορῶντες καὶ ἃ προσοίσουσιν ἂν καὶ οἱ πολλοὶ, οἷς τὰ ἐκτὸς ὡς τὰ ἀγαθὰ ἢ κακὰ, καὶ τὰ τοῦ σώματος ὡσαύτως ὑπειλήφασι, νομοθετοῦσιν, τί τὶς τῶν τούτων ὠφελείαν νόμον ἀναιρεῖται βίου; If other lawgivers (ſaith *Porphiry*) regarding that middle kind of life which is ſaid to be according to Nature, and to thoſe things of which men are capable, who eſteem things good or evil by proportions of the body, have given laws Symbolical, yet what hurt does he, that brings in better? Adv. Celſ. 3. L. 1. de non eſu anim.

4. 1. For firſt it is certain, God himſelf did permit ſome things in *Moſes* law which himſelf had no pleaſure in: I inſtance in the matter of divorces, of which God by the Prophet ſayd, *I hate putting away.*

5. 2. The promiſes of *Moſes* law, in which the whole obedience was eſtabliſhed and for which it was exacted were wholly temporal and related to this life; and when the Prophets and holy men of the Nation began to ſpeak openly of reſurrection from the dead, and a life to come, it was an open proclamation of the imperfection and change of that law by which nothing of that was promiſed and nothing at all ſpoken of by which Mankind ſhould by obeying God arrive to that felicity which all wiſe men did ſuppoſe God did deſign to him.

6. 3. Although good things for this life were promiſed by the law of *Moſes* yet toward the end and expiration of it, the Nation ſuffer'd a new diſpenſation of things; and the godly men were often perſecuted, and the whole Nation continually baffled, and ſubdued by him that would; by the Aſſyrians, and Chaldæans, by the Perſians and by Antiochus, by the Syrians and the Romans, and therefore it was neceſſary they ſhould expect ſome better Covenant which ſhould be verified in the letter, and make recompence for the calamities which their beſt men here did ſuffer.

7. 4. The laws of *Moſes* were ſuch which were not of things naturally and originally good, but which did relate to time and place and perſon, but it was a law without which many ages of the world did live, and after it was eſtabliſhed it did onely bind that people; for neither did *Moſes* perſuade his Father in law *Jethro* to receive that law, neither did the Prophet *Jonas* perſuade it to the Ninevites, nor the Prophets ever reprove the not obſerving it, in the Aſſyrians, or Egyptians, the Idumeans and Moabites, the Tyrians and Sidonians, or any of their Neighbours, whoſe vices they oftentimes reprov'd ſeverely; and the beſt men of the firſt and ſecond world; *Abel* and *Enoch*, *Noah* and *Melchiſedec*, *Sem* and *Job*, *Abraham* and *Iſaac*, *Jacob* and *Joſeph* knew nothing of it, and yet were deare to God: But if the law had conſiſted of eſſential, prime and Natural rectitudes, it had been alwayes and every where; and if it conſiſt not of ſuch, it is not fit to be laſting, but it ſelf calls for a change when all the body and Digeſt of laws excepting ſome few that were before that law and ſhall be for ever, either were experiments of their obedience, or ſignifications of ſome moral duty implyed in the external ritual, or compliances with a preſent neceſſity, and to draw them far from imitation of the vile cuſtomes of the Nations, or were types and ſhadows of ſomething to come thereafter.

8. 5. The law of *Moſes* was a Covenant of works, and ſtipulated for exact obedience, which becauſe no man could perform, and yet for great crimes committed under *Moſes* law there was there no promiſe of pardon, no ſolemnity or perfect means of expiation, by the Nature of things and the neceſſity of the world, and the goodneſs of God a change was to be expected.

9. 6. That their law and Covenant ſhould be changed was foretold by the Prophets; particularly by the Prophet *Jeremiah*, *I will make a new Covenant with you in thoſe daies, and in your minds will I write it:* and when God had often expreſſed his diſlike of ſacrifices, in which yet the greateſt part of the legal ſervice was eſtabliſhed, God does alſo declare what that is which he deſires inſtead of it; even no other then the Chriſtian law, *that we ſhould give to every one their due, and walk humbly with God*; that they ſhould obey him, and *give him the ſacrifice of a contrite and a broken heart:* and if this be not a ſufficient indication of the will of God for the abolition of the Moſaick law, then let this be added which was prophecyed by *Daniel*, *The Meſsias ſhall cauſe the ſacrifice and the oblation to ceaſe.*

Jer. 31. 31, &c. Pſal. 50. & 51. & 40.

Iſaiah 1. Jer. 7. Micah 6.

7. It

10. 7. It was prophecyed * that in the dayes of the Messias the Gentiles also should be the people of God; but therefore they were to be governed by a New law, for *Moses* law was given to one people, had in it rites of difference and separation of themselves from all the world, and related to solemnities which could not be performed but in a certain place, and a definite succession and family; which things being the wall of partition and separation because Christ hath taken away or confounded in an inseparable mixture and confusion, God hath proclaim'd to the Jewes that *Moses* law is not that instance of obedience in which he will be any longer glorified.

* Jer. 23. Isaiah 43. Malach. 1.

11. From these premises the pretence of the Jewes for the Eternity of *Moses* law will be easily answered. For whereas they say that God called it, an Everlasting Covenant: it is certain that even amongst the Jewes, the word *Everlasting* did not always signifie infinitely, but to a certain definite period. For the law relating to the land of their possession, in which God promised to them an Everlasting inheritance; as their possession of the land is Everlasting, so is the Covenant, and they expir'd together: for all the demonstrations of the Spirit of God, all the miracles of Christ and his Apostles, all the sermons of the Gospel, all the arguments which were taken from their own books could not persuade them to relinquish *Moses* law and adhere to Christ: and therefore when all things else did fail, God was pleased to give them a demonstration which should not fail; he made it impossible for them to keep *Moses* law; for he broke their law and their Nation in pieces. But as to the word [Everlasting] and [Eternal] it was usual with them to signifie but to the end of a life, or of a family, and therefore much rather of a Nation. The band of marriage is Eternal, but it dies with either of the relatives: and the Oath of Allegiance is for ever, but that for ever is as mortal as the Prince. Thus also in *Moses* law, *The servant whose eare was boared should serve for ever*, that was but till the yeer of Jubilee: and *Hannah* carried up her son to the Temple when he was weaned *that he might abide there for ever*: Thus the Priesthood of *Phinehas* was said to be for ever; but God who said that he *and his posterity should walk before the Lord for ever*, did put a period unto it in *Eli*. But besides this, it is observable that the law and Covenant of Moses according to the manner of speaking of that and other Nations is used to distinguish it from the more temporary commands which God gave to persons and to families, and to the Nation it self in the wilderness, which were to expire as it were with the business of the day, but this was to be for ever, even as long as they enjoyed a being in the land of their Covenant: for thus we distinguish the laws of peace from the orders of warre: those are perpetual to distinguish from the temporality of these.

Exod. 21. 6. 1 Sam. 1. 22. 1 Sam. 2. 30.

12. These Arguments are relative to the Jewes and are intended to prove the abrogation of *Moses* law, against them. But to Christians, I shall alledge the words and reasons of the New Testament, so farre as the thing it self relates to Conscience. For not onely the Jewes of old, but divers Christian Bishops of *Jerusalem*, fifteen in immediate succession, did plow with an Oxe and an Asse, and were circumcised; the Converted Pharisees, the Ebionites, the Cherinthians and the Nazaræi still did beleeve that *Moses* law did oblige the Conscience: and amongst us there are or have been a great many Old Testament Divines whose Doctrine and manner of talk, and arguments, and practices have too much squinted toward *Moses*.

Iren. l. 1. c. 26. Epiphan. hær. 18, 28, 30, 66. Hieron. ep. 89. ad Augustin. Damasc. verb. Nazaræi. Euseb. l. 3. c. 27. August. hæres. 8, & 9.

13. But against all such practices or pretences I produce the decree of the Apostles at *Jerusalem* in the question of Circumcision: the abrogation of which disannuls the whole law: *for I Paul say unto you, if ye be circumcised ye are debtors to keep the whole law:* therefore by a parity of reason, we are not debtors to keep the law, when that great Sacrament and Sanction of the law is annul'd. To this purpose are those frequent discourses of the Holy Scriptures of
Luke 16. 16. the new Testament: *The law and the Prophets were until John*; since that *time the Kingdom of God is preached:* where the two terms of the Law and the Gospel are expressly described; *John* the Baptist being the common term between
Rom. 6. 14. them both, so that *now we are not under the law, but under grace*; *we are dead to*
Rom. 7. 4. *the law*, and that band being separate, *we are married to a new Husband, even to*
Heb. 7. 12. *Christ: who is also our High priest, after the order of Melchisedek, not after the order of Aaron*; but then *the Priesthood being changed there is made of necessity a*
Gal. 3. *change also of the law*; for this was not to last but till Christs coming, *for the law was given but till the seed should come:* till then *we were under the law as under a School-master*, but *when faith came, we are no longer under this pædagogy*, it was but *until the time appointed of the Father:* and to this purpose S. *Paul* spends a great part of the Epistles to the Romanes and Galatians. For one of the great benefits which we receive by the coming of Christ is that we are now treated with by a covenant of faith, that is, of grace and pardon, of repentance and sincere endevours, the covenant of *Moses* being a prosecution of the covenant of works, can no longer oblige, and therefore neither can the law; for the law and the Covenant were the constitutive parts of that whole entercourse, they were the whole relation, and this is that which S. *John* said, *The law came by Moses, but grace and truth came by Iesus Christ:* and ever since he was made our Lord and our King, he is our Lawgiver and we are his Subjects, till the day of Judgement in which *he shall give up the Kingdom to his Father.*

14. But the greatest difficulty is behind: For not all *Moses* law is disannul'd, for some is injoyned by Christ; and some is of Eternal obligation; and such the Decalogue seems to be: the next inquiry therefore is, what part of *Moses* law is annul'd *by Christ.* To this I answer by parts.

Rule 2.

The Ceremonial law of Moses is wholly void.

1. FOR this is that hand writing of ordinances which Christ nailed to his Cross, and concerning this we have an express command recorded by the Apostle,
Coloss. 2. 16. *Let no man judge you in meat or in drink, or in respect of an Holyday, or of the New moon, or of the Sabbath dayes:* and concerning the difference of meats not only their own Doctors say, the precept of *Moses* is not obligatory any where but in Palestine, but they have forgot the meaning of the names of some of them, or at least dispute it, which is not likely they would so strangely have lost, if the obligation also had not been remov'd. But as to us the case is confessed: for all the arguments before alleaged proceed of this part of the Mosaick law, if of any, this being chiefly made up of umbrages, figures, and imperfect services, relative to place and time, to families and separate persons, such which every change of Government could hinder, and which in the conflict and concussion with other laws did ever give place, even in that time when they were otherwise obligatory, which *could not cleanse the conscience, nor take away*

away sins; but were a burden made to teach something else, like letters written upon little cubes, or given as appellatives to slaves that the children who were waited on by them might learn the Alphabet; but else they were a trouble to no real perfective purpose of our Spirits.

Quest.

2. I Know but of one difficulty which this thing can meet with, and that is made by the scrupulous inquiries of some tender or curious persons who suppose the difference of meats not to be so wholly taken away, but that still under the lawes of the Gospel we are bound to abstain from blood and from things strangled; pretending for this scruple, the Canon of the Apostles at *Jerusalem:* which injoyns this abstinence, and reckons it amongst the τὰ ἀναγκαῖα, things necessary: and this was for a long time used and observed strictly by the Christians: of which we have testimony from that law of *Leo* the Emperor, where having forbidden the use of blood stuff'd in the Entrailes of beasts, he affirmes that in the old law, and in the Gospel it was alwaies esteemed impious to eat it. And this was not onely for the present, and for compliance with the Jewes that by the observance of some common rites the Gentile converts might unite with the beleeving Jewes into one common Church, but they suppos'd something of Natural reason and decency to be in it; and the obligation to be eternal, as being a part of that law which God gave to *Adam*, or at least to *Noah* after the floud; for they who use to eat or drink bloud are apt to degenerate into ferity and cruelty and easinesse of revenge; and if *Origen*'s fancy had been true, it had been very material; for he suppos'd that the Devils were fed with bloud: but however, certain it is that the Church did for divers ages most religiously abstain from bloud; and it was the great argument by which the Primitive Christians did confute the calumnies of the Heathens imputing to them the drinking of humane bloud: they could not be suppos'd to doe that, who so religiously abstain'd from the bloud of beasts, as we find it argued in *Tertullian*[a], *Minutius*[b], and *Eusebius*[c], who also tells of *Biblis* that she rather would die then eat bloud in a pudding: and in the Canons commonly called Apostolical[d] it is forbidden to a Clergy man to eat bloud, under pain of deposition, to a lay man under excommunication: which law was mention'd and suppos'd obligatory in the second Canon of the Councel of *Gangra*; and long after by the Canon of the Councel in *Trullo*; by the Councel of *Wormes* under *Ludovicus Pius cap.* 65. by Pope *Zechary* in his epistle to *Boniface*; and from hence the penitential books had warrant enough to impose Canonical Penances upon them that did tast this forbidden dish: and that they did so is known and confess'd.

Acts 15.

Novel. 53.

[a] In Ap. c. 9.
[b] In Octavio.
[c] Eccles. hist. lib. 5. c. 1.
[d] C. 62.

Vide etiam Clemen. Alex. Pædag. l. 3 c. 3. Niceph. lib. 4. c. 17. & idem videre est apud Lucianum in Pereg.

3. But to the Question and inquiry, I answer, 1. That the abstinence from bloud is not a law of Nature or of Eternal rectitude as appears, first in that it was not at all impos'd upon the old world; but for a special reason given to the posterity of *Noah* to be as a bar to the ferity and inhumane blood-thirstinesse of which the old Giants were guilty, and possibly others might afterwards. For the Jewes reckon but six precepts given to *Adam* and his posterity after the fall. *The first* against strange worship. *The second* of the worshipping the true God. *The third* of the administration of justice. *The fourth* of discloshing nakednes, or a prohibition of uncleanness. *The fifth* against shedding bloud. *The sixth* against theft: and indeed here are the heads of all Natural laws; but because the old world grew cruel to beasts, and the Gyants were degenerated into a perfect ferity, and liv'd on bloud; therefore it pleas'd

God to superadde this to *Noah*, that they should not eat blood; that is, that they should not eat the flesh of beasts that were alive; that is, *flesh with the blood*: and it is not to be despised that the drinking of bloud is not forbidden; but the eating onely: meaning that the blood was not the main intention of the prohibition; but living flesh, that is, flesh so long as the bloud runs from it: Gen 9.4. *flesh with the life thereof*, that is, *with the bloud*: so run the words of the Commandement; and therefore the Doctors of the Jews express'd it by the not tearing a member of any live creature: which precept was the mounds of cruelty, God so restraining them from cruelty even to beasts, lest they might learne to practise it upon men. For God sometimes places some laws for defensatives to others, and by removing men afar off from impiety he secures their more essential duty. 2. But even this very precept is by all the world taught to yeeld to necessity and to charity, and cruelty to beasts is innocent when it is charity to men: and therefore though we doe not eat them, yet we cut living pigeons in halfs and apply them to the feet of men in fevers, and we rip the bellies of sheep, of horses, of oxen, to put into them the side of a Paralytick; and although to rude people and ignorant, such acts of security were useful, yet to Christians it is a disparagement to their most excellent institution, and the powers and prevalencies of Gods spirit, to think they are not upon better accounts secur'd in their essential duty. The Jews were defended from idolatry by a prohibition even of making and having images: but he is but a weak Christian who cannot see pictures without danger of giving them worship. 3. The secret is explicated by God in the place where he made the law: it was first a direct design to introduce mercy into the world, by taking care even of beasts: and secondly it was an outerguard against the crime of homicide: and *Irenæus*, *Tertullian*, S. *Cyprian* and S. *Ambrose* expound the meaning of the whole affair to be nothing else but a prohibition of homicide: for as God would have men be gentle to beasts[a], so if beasts did kill a man, it should be exacted of them[b]: neither the mans dominion over the beast could warrant his cruelty over them, nor the want of reason in beasts bring immunity if they kill'd a man, and the consequent and purpose of both these is express'd, vers. 6. *whoso sheddeth mans bloud, by man shall his bloud be shed*; and all this put together is a demonstration how dear lives are to God; even the life of beasts is in one sense sacred: for even then when they were given to Man for food, yet the life was not; they must first be dead before they might be eaten: but therefore the life of Man was sacred in all senses, and should be required of man and beast. But that God doth even take care for Oxen, in the matter of life, appears in this prohibition, *flesh with the life thereof ye shall not eat*; that is, you shall not devour the flesh even while it is alive; for the bloud is the life thereof; that is, when the bloud is gone you may eat, till then it is presumed to be alive. Now there can be no other meaning of the reason: for if blood were here directly prohibited to be taken and drunk or eaten, this reason could not have concluded it, [*because it is the life, therefore you may not eat it*] being no better an argument then this; you may not eat the heart of a beast, for it is the life thereof; but the other meaning is proper, *ye shall not eat flesh with the bloud which is the life thereof*, that is, so long as the bloud runs, so long ye must not eat; for so long it is alive: and a beast may be killed but not devour'd alive. So that the prohibition of bloud is not direct in the precept, but accidental, blood is forbidden as it is the sign of life and the *vehiculum* of the Spirits, the instruments of life; and so long as it runs so long the life abides ordinarily; and therefore *Zonaras* in his notes upon the Councel of *Gangra* expounds the word αἷμα or bloud sup-

[a] Vers. 4.
[b] Vers. 5.

Vide S. Aug. lib. 21. c. 6. contra adversarium legis & Prophetarum.

pos'd

pos'd in that Canon as unlawful to be eaten or drunk, by ἐξεπίτηδες ἑψόμενον, καὶ πνικτόν, blood diligently or faſt running or following the wound, and thick; that is, as I ſuppoſe, *blood digeſted*, to diſtinguiſh it from *ſerum ſanguinis* or the watry bloud that is ſeen in beaſts after they have bled, that they might not have ſcruple in minutes and little ſuperſtitions: χωρὶς ζωτικοῦ αἵματος, *without active blood*, ſo *Balſamo*: and it is not impertinent to the main inquiry that it be obſerved that the Jews uſe [life] inſtead of bloud, and ſo does the Vulgar Latin, that we might the eaſier underſtand the meaning to be of *life*, or *living bloud*. But then this is nothing to eating the bloud when the beaſt is certainly dead: and therefore it is obſervable that they who did make a ſcruple of eating bloud did not all of them make a ſcruple of eating things ſtrangled in which the bloud remained: and therefore in ſome copies of the Apoſtolical decree mention'd *Acts* 15. the word πνικτὸν or *ſtrangled* is left out; and S. *Auſtin* obſerves that in his time in *Africa* the Chriſtians did not ſeverely abſtain from things ſtrangled. For if the caſe were the ſame between bloud running and bloud ſetled and dead, then the reaſon of the Commandement were nothing or not intelligible; and beſides it would breed eternal ſcruples: ſince in the very killing of beaſts there will ſome bloud remain, and in the neck pieces and ſome veins every body hath obſerved ſome bloud remaining even after the effuſion by the knife. 4. This could not be a law of Nature, becauſe not mention'd by Chriſt in all his law, which I have already prov'd to be a perfect Digeſt of the Natural law: onely that ſenſe of it which I have now given, is involv'd in a law of Nature, and conſequently enjoined by Chriſt, *viz.* under the precepts of mercy, according to that ſaying of the wiſe man, *a good man will be merciful to his beaſt*: and the Athenians put a boy to death becauſe he took delight to prick out the eies of birds and ſo let them flie for his paſtime, as ſuppoſing that he who exerciſed his cruelty upon birds being a boy, would in time deſtroy men too. 5. Upon the account of this interpretation we are to diſtinguiſh the material part from the formal; the bloud as it is ſuch a ſubſtance from the bloud as it is alive: juſt as the εἰδωλόθυτα are to be differenc'd: for to eat the meat when it is ſold in the ſhambles is a thing indifferent, ſaid S. *Paul*, though it was offered to idols; but this very meat might not be eaten in the Temples, nor any where under that formality, as S. *Paul* there diſcourſes: and therefore what the Apoſtles in their letter to the Churches call εἰδωλόθυτα, S. *James* in the deciſion of the queſtion calls ἀλισγήματα τῶν εἰδώλων pollutions of idols that is, all communications in their idolatrous portions and ſervices, and ſo it is for bloud, abſtain from life bloud, or bloud that runs while the beaſt is dying, that is, devour not the fleſh while the beaſt is alive, be not cruel and unmerciful to your beaſt: but if blood be taken in its own materiality when the beaſt is dead, it may be eaten as other things, without ſcruple: they being both in the ſame ſenſe as in the ſame obligation

4. 5. 1 Cor. 10. 25.

αἷμα ὃ μὴ φαγέτω, εἰδωλοθύτων δ' ἀπέχεσθαι. Phocyl.

There is a letter and a ſpirit in both of them. 6. One thing only I ſhall adde to make this appear to have been relative, temporal and ceremonial; and that is, that when God was pleas'd to continue the command to the ſons of Iſrael in *Moſes* law, he changed the reaſon, onely reciting the old reaſon for which it was impoſed to the poſterity of *Noah*, and ſuperadding a new one as relating to themſelves: *For the life of the fleſh is in the bloud, and I have given it to you upon the altar to make an atonement for your ſoules; for it is the bloud that maketh an atonement for the Soule.* So that to the bloud there

6. Levit. 17. 11.

was

was superadded a new sacredness and religion, it was typical of the great sacrifice upon the Cross, the bloud of which was an holy thing, and it was also instrumental to their sacrifices and solennities of their present religion: and therefore this ritual is to cease after that the great sacrifice is offer'd and the great effusion of bloud is past. But as they had a new reason, so also had they a new injunction, and they were interdicted the eating of any thing strangled; which they taking to be a pursuance of the precept given to *Noah*, were the more zealous of it; and lest their zeal might be offended, the first Christians in their societies thought fit to abstain from it. But this ever had a less obligation then the former, and neither of them had in their letter any Natural obligation: but the latter was introduc'd wholly upon the Levitical account: and therefore did cease with it. 7. After this so plain and certain commentary upon this precept I shall the less need to make use of those other true observations made by other learned persons: as that this Canon was made for a temporary compliance of the Gentile Proselytes with the Jewish converts, that this was not a command to abstain from bloud, or strangled, but a declaration onely that they were not obliged to circumcision; but they already having observed the other things, it was declared they need go no further: that whereas these things were said to be necessary ἐπαναγκες, the meaning of the word is not absolute but relative; for it is ἐπ' ἀναγκης ἔχειν, to have a thing under some necessary condition, and so it happened to them to whom the Apostles wrote; for they were Gentile Proselytes before they were Christians, and so were tyed to observe the seven precepts of *Noah*, before the Jewes would converse with them, and therefore that this did not concerne the Gentiles after they were an intire Church: for although it did while the separation lasted, and that there were two Bishops in some great Churches as in *Rome* and *Ephesus*: yet when the Church was of Gentiles onely, or conversed not with Jewes, this could not relate to them. That bloud should be forbidden in the formality of meat is infinitely against the Analogy of the Gospel: The decretory and dogmatical words of Christ being, *that nothing which enters into the mouth defiles a man*: and the words of S. *Paul* are permissive and preceptive, *Whatsoever is sold in the shambles, eat, asking no question for Conscience sake. For meat commendeth us not to God; for neither if we eat are we the better, neither if we eat not are we the worse*: and *the Kingdome of God consisteth not in meat and drink, but in righteousness, and peace, and joy in the Holy Ghost.* The result is this, that bloud as it is a meat cannot be suppos'd here to be directly forbidden as Naturally unlawful, or essentially evil, or of a proper turpitude: but if the Apostles had forbidden the very eating of bloud as meat, it must be supposed to be a temporary and relative command which might expire by the ceasing of the reason, and did expire by desuetude; but since it was not so, but a permitting the Gentile Proselytes and incouraging them for present reasons to abstain from running or life bloud in the sense above explicated, according to the sense of the Jewish Doctors and their Disciples, it no way can oblige Christians to abstain from bloud when it is dead, and alter'd, and not relative to that evil which was intended to be forbidden by God to *Noah*, and was afterwards continued to the Jewes. I end this with the words of *Tertullian*, *Claves macelli tibi tradidit, permittens ejus omnia ad constituendam idolothytorum exceptionem.* God hath given to us the keyes of the shambles, onely he hath forbidden the pollution of idols: in all other things you have your liberty of eating.

Math. 15. 1 Cor. 10. 25. Rom. 14. 17. De jejuniis.

8. I am onely now to give an account of the reasons of the Ancient Churches,

ches, why ſo pertinaciouſly and ſo long they refus'd to eat boyl'd bloud, or any thing of that Nature, But for that it is the leſs wonder when we conſider that they found it injoyned by all the Churches where the Jewes were mingled, and the neceſſity laſted in ſome places till the Apoſtles were dead, and the Churches were perſecuted: and then men uſe to be zealous in little things, and curious obſervers of letters; and when the ſucceeding ages had found the precedents of Martyrs zealous in that inſtance, it is no wonder if they thought the Article ſufficiently recommended to them. 2. But if we liſt to obſerve that the Pythagorean Philoſophers were then very buſy and intereſted in the perſuaſions of Men and Sects, and *Pythagoras* and *Plato* and *Socrates* had great Names amongſt the leading Chriſtians, it is no wonder if in the percolation ſomething of the reliſh ſhould remain, eſpecially having a warrant ſo plauſible to perſuade, and ſo eaſy to miſtake as this decretal of the Apoſtles, and the example of the Ancients living in that time which the Heathens called the Golden age,

Nam vetus illa ætas non polluit ora cruore. Metam. l. 15.

Single life, and abſtinence from certain meats, and refuſing of bloud, and ſeverity of Diſcipline, and daies of abſtinence were ſometimes perſuaded, ſometimes promoted, ſometimes urg'd, ſometimes made more neceſſary, by the *Montaniſts*, the *Eſſens*, the *Manichees*, the *Novatians*, the *Encratites*, the *Pythagoreans*, and the very *Heathen* themſelves, when becauſe they would pretend ſeverity it became fit that the Chriſtians ſhould not be or ſeem inferior to them in ſelfdenial, Diſcipline and auſterities. But I ſhall make no more conjectures in this matter, ſince if the Church at that time did injoyn it, the Canon was to be obeyed, and it may be in ſome places it was practis'd upon that ſtock; upon any other juſt ground, it could not, as I have already prov'd. Onely this; it cannot be denied but in the Weſterne Church where this decree and the conſequent Cuſtome was quickly worne out, though it laſted longer even to this day in the Greek Church, and *Balſamo* inveighs againſt the Latines for their careleſneſs in this Article; yet there were ſome intervals in which by chance this decree did prevail; but it was when the Biſhops of *Rome* were ſo ignorant that they could not diſtinguiſh the Old Teſtament from the New, but in ſome particulars did Judaize. I inſtance in Pope *Zechary* before mention'd; who in his decretal to *Boniface* the Arch-Biſhop of *Mentz* is very curious to warne him to forbid all Chriſtians with whom he had to doe, they ſhould abſtain from ſome certain ſorts of birds, as jack-dawes, crowes and ſtorks; but eſpecially that Chriſtians ſhould eat no hares, nor bevers, nor wild-horſes: and the Councel of *Wormes* determin'd ſomething to the like purpoſe, not much wiſer; but what was decreed then was long before reprov'd by S. *Auſtin*, affirming that if any Chriſtian made a ſcruple of eating ſtrangled birds in whom the bloud remain'd, he was derided by the reſt: and that this thing which was uſeful in the infancy of the Church ſhould be obtruded upon her in her ſtrength, is as if we ſhould perſuade ſtrong men to live upon milk becauſe their tender Mothers gave it them as the beſt nouriſhment of their infancy. Lib. 32. c. 13. cont. Fauſtum Manich.

5. This thing being cleared I know no other difficulty concerning the choice of meats in particular, or the retention of the Ceremonial law in general, or in any of its inſtances, but what will more properly be handled under other titles.

RULE

Rule 3.

The Judicial law of Moſes is annul'd, or abrogated, and retains no obliging power either in whole or in part over any Chriſtian Prince, Commonwealth, or Perſon.

1. Either the Judicial was wholly civil, or it was part of the Religion. If it was wholly ſecular and civil, it goes away with that Commonwealth to whom it was given; if it was part of the religion it goes away with the Temple, with the lawgivers authority by ceſſion to the greater, with the prieſthood, with the Covenant of works, with the revelation and reign of the Meſſias: and though the inſtances of this law proceeding from the wiſeſt Lawgiver are good guides to Princes and Common-wealths where the ſame reaſons are applicable in like circumſtances of things and in equal capacities of the Subjects, yet it is wholly without obligation. In the Judicial law theft was not puniſhed with death, but with the reſtitution of four-fold; and unleſs the neceſſities of a Republick ſhall inforce it, it were conſonant to the deſign of Chriſtian religion, the intereſt of Souls, their value, and pity, that a life ſhould not be ſet in ballance over againſt a ſheep or a cup. In the Judicial law of *Moſes* Adultery was puniſhed with death; but it will not be prudent for a Common wealth to write after this Copy unleſs they have as great reaſon and the ſame neceſſity, and the ſame effect be likely to be conſequent; it was highly fitting there, where it was ſo neceſſary to preſerve the Genealogies, and where every family had honours and inheritances and expectations of its own, and one whole tribe expected in each houſe the revelation of the Meſſias, and where the crime of Adultery was infinitely more inexcuſable by the permiſſion of divorces and Polygamy then it can with us. But with us and ſo in every Nation, many conſiderations ought to be ingredient into the conſtitution of a capital Law: but they have their liberty, and are onely tied up with the rules and analogies of the Chriſtian law: onely the judicial law of *Moſes* is not to be pretended as an example and rule to us becauſe it came from a Divine principle; unleſs every thing elſe fit it by which the proportions were made in that Common-wealth; for although God made Aprons for *Adam* and *Eve*, it would not be a comely faſhion for the Gallants of our age and Countries. But concerning this who deſires to ſee long and full diſcourſes, I refer him to *Guilielmus Zepperus de legibus Moſaicis*, and the Preface of *Calvin* the Lawyer to his *Themis Hebræo-Romana*.

2. But the thing in general is confeſs'd, and the arguments now alledged make it certain: but then why it ſhould not be ſo in every particular when it is confeſſed to be ſo in the General, I doe not underſtand; ſince there are no exceptions or reſervations of any particular in the New law; the law of Chriſtianity. But in two great inſtances this Article hath difficulty; the one is 1. The approach of a man to his wife during her uſual terme of ſeparation. 2. The other is concerning the degrees of kinred hindring marriage; both which being taken expreſs care of in the Judicial law, and yet nothing at all ſaid of them in the laws of Chriſt, are yet ſuppos'd to be as obligatory to Chriſtians now, as to the Jewes of old. Of theſe I ſhall now give account

becauſe they are of great uſe in the Rule of Conſcience, and with much unquietneſs and noiſe talk'd of, and Conſciences afflicted with prejudices and authority, with great names and little reaſons.

Queſt.

3. WHether the Judicial law of mutual abſtinence in the dayes of Womens ſeparation obliges Chriſtian pairs?

4. The Judicial law declar'd it to be twice pœnal. Once it onely inferr'd a legal Uncleanneſs for ſeven days. *Levit.* 15. 24. But in the 20. *Levit.* 18. It is made Capital to them both; *they ſhall be both cut off from the people.*

5. From hence, *Aquinas*, *Alexander of Ales*, *Bonaventure*, and *Scotus* affirme it to be a mortal ſin for a husband then to approach to her: *Paludanus* and *Cajetan* deny it; and amongſt the Caſuiſts it is with great difference affirmd or denyed but with very trifling pretences, as if they were to give laws, and not to informe Conſciences upon juſt grounds of reaſon or religion.

6. They who ſuppoſe it to be unlawful affirme this law to be ceremonial, judicial and Moral. It is *ceremonial* becauſe it inferr'd a legal impurity; or ſeparation for ſeven days. It is *judicial* by its appendant ſentence of death, and a Capital infliction. It is *moral*, becauſe it is againſt charity as being hurtful to the child in caſe any be begotten by ſuch approaches. The whole ceremoniality of it is confeſſedly gone; but the puniſhment of it in the Judicial law being capital they urge it as an argument that it is moral. So that the whole weight lies upon this. That which was by the law of God puniſh'd with death, was more then a meer ceremony, and muſt contain in it ſome Natural obliquity and turpitude. And in this caſe we need not to go far in our inquiry after it; for it is becauſe of the great uncharitableneſs, as being a cauſe of monſtrous productions, or leproſies and filthy diſeaſes in the children: and as the former of theſe two ſignifies its morality; ſo this does formally conſtitute it: and this is confirmed by the words annexed to the prohibition: *For the nations committed all theſe things, therefore I abhorred them*: amongſt which, this in the queſtion being enumerated, it will follow more then probably, that ſince this thing was imputed to the Heathens who were not under *Moſes* law, it muſt be imputed becauſe it was a violation of the law of Nature. Levit. 20. 23.

7. To theſe things I anſwer; 1. That the puniſhment of all ſuch approaches under *Moſes* law with death, was no argument of any Natural turpitude and obliquity in the approach. For then circumciſion would be neceſſary by a Natural law, becauſe every ſoul that was not circumcis'd was alſo to be cut off from his people. But if for this reaſon it were onely to be concluded unlawful, then ſince this reaſon is taken away, and it is by no law of God puniſhable, nor yet by any law of man, it follows that now it cannot be called a Mortal or a Great ſin, to which no *mortal puniſhment* is annexed nor indeed any at all.

8. 2. But neither was it juſt thus in the law of *Moſes*. For by the law of *Moſes* it was nothing but a legal impurity, a ſeparation from the Temple and publike ſacrifices and ſome ſorts of commerce for ſeven dayes; and thus much was alſo impos'd upon the woman though ſhe was lock'd up and convers'd with no man even for her Natural accident: and if by the gravity or levity of a puniſhment we may make conjectures of the greatneſs of a ſin (of which I ſhall

in

in the third book give accounts) then it would follow that every such approach was nothing but a breach of a legal rite or ceremony, since it was punished onely with a legal separation, which also was equally upon every innocent woman in that period. * Yea, but besides this it was made Capital. I answer, that could not be, if the case were the same; for two punishments are not in laws inflicted upon the same offence, directly and primarily: and therefore *Radulphus Flaviacensis* supposes here to be a direct contradiction in the letter of these two laws; and that they are to be reconcil'd by spiritual significations in which onely they are obligatory to us under the Gospel; but I doe not very well understand what he would have, nor any ground of his conjecture, but am content it is not material, since he confesses that the very letter oblig'd the Israelites, which how it is possible, and yet be contradictory, I shall never understand. * *Hugo Cardinalis* saies that the first of these punishments was on him who did it ignorantly; but it was Capital onely to him who did it knowingly and voluntarily. But this is not probable; for then it would be in effect so that the man might only contract a legal impurity; and the woman be sure to die for it:

Cip. 6. explan in Levit.

Enimvero durâ lege hîc agunt mulieres:

for although the man could often say truly, and might always pretend that he did it ignorantly, yet the woman could not: for it is not likely that she should with much probability at any time say she did it ignorantly, and since it cannot be but by a rare contingency, it is not likely to be the subject matter of a regular law, and provided for by a daily and perpetual provision; especially, since that case is already provided for in other periods, as being sufficiently included under them that by chance touch a woman so polluted: and therefore this does not reconcile the difficulty: but since it must be confess'd that on the woman (at least ordinarily) both these laws must have effect, and yet the woman cannot easily and ordinarily be suppos'd to be ignorant in such a case so as to need a law (for laws use not to be made for rare contingencies) it follows that this distinction is not sufficient to reconcile the difficulty. But *Lyra* and *Abulensis* have a better, saying that the legal impurity was the punishment onely when the fact was private: but it was Capital when it was brought before the Judge: and truly for this there was great reason. For since the woman also was to die, it is not to be supposed that she would accuse her Husband and condemn her self, and such things use not to be done publikely; it is therefore to be supposed that who ever did doe this so as to be delated for it and convicted must doe it ἐν χειρὶ ὑπερηφανίας with the hand of pride, in contempt and despight of *Moses* law; for which as S. *Paul* witnesses, *a man was to die without mercy.* * But now from hence I infer, that since the contempt and open despight of the law onely was Capital, it was not any natural turpitude that deserv'd that calamity; it was nothing but a legal uncleanness, which every child had that did but touch her finger.

9. But then for the next argument with which the greatest noise is made, and every little Philosopher can with the strength of it put laws upon others and restraints upon mens freed Consciences; I answer first upon supposition that it were true and real, yet it does not prove the unlawfulness of such addresses. For if the man and woman have a right to each other respectively, there is no injury done by using their own right. *Nemo damnum facit, nisi qui id facit quod facere jus non habet*, saith the law. But that is not the present case, for the married pair use but their own rights which God hath indulg'd. And therefore *Paulus* the Lawyer from the sentence of *Labeo* hath defin'd, that no man can be

L. Nemo. de regul. juris.

L. 2. de aqua pluvia arcenda.

be hindred from diverting the water running through his own grounds, and ſpending it there, though it be apparent that his Neighbour receives detriment to whom that water would have deſcended. I know this may be altered by laws Cuſtomes and Covenants, but there is no eſſential injuſtice in it, if loſs comes to another by my uſing my own right. To which I onely adde this one thing, becauſe I am not determining a Title of law in open court, but writing Rules of Conſcience: that though every ſuch interception of water, or other uſing of our right to our Neighbours wrong be not properly *injuſtice*, yet unleſs he have juſt cauſe to uſe it, it is unlawful to doe ſo, becauſe it is *Uncharitable*; becauſe then he does it with a purpoſe to doe his Neighbour injury. And ſo it is in this caſe; If any man or woman in ſuch approaches intend hurt to the child, as hoping the child might not live, or if either of them deſign'd that the child ſhould by ſuch means become hated, or neglected in proviſions, and another preferred, then I doubt not but to pronounce all ſuch mixtures impious and abominable: and to this ſenſe thoſe words of S. *Auſtin* in this article are to be expounded: *Per talem legem in Levitico poſitam non Naturam damnari, ſed concipiendæ prolis noxiam prohiberi.* The thing it ſelf is not Naturally impure; but it is forbidden that hurt ſhould be intended or procur'd to the child: for although in the inſtance of *Paulus*, above reckon'd the injury is certain, and the perſon deſinite and known to whom it is done, and in the preſent queſtion both the event at the worſt is but uncertain, and the perſon to be injur'd not yet in being, and therefore the caſe is much more favourable *here* then *there*, yet when this caſe does happen, there can be no excuſe for it, becauſe it is the act of an evil mind, and an uncharitable Spirit. Qu. 64. ſuper Levit.

10. 2. Upon ſuppoſition that this allegation were true, yet it follows not that all ſuch approaches were unlawful: as appears in the caſe of a leprous wife with whom that it is lawful to have congreſs is ſo certain that it is told as an heroick ſtory of *Dominicus Cataluſius* a Prince of *Lesbos* that he did uſually converſe with his wife that was a leper, as ſtill knowing it to be his own fleſh, which no man hates: but if with a Leper (whoſe iſſue is as certain to be leprous, as in the other caſe to be any way diſeaſed) it be lawful, the effect notwithſtanding; then the argument ought not to infer a prohibition, or conclude it to be unlawful. The ſame alſo is the caſe of both men and women in all hæreditary diſeaſes, and in any diſeaſes which are reſident in any principal part with any of which if either of them be infected, it is (if this reaſon be good) equally unlawful for them to beget children, or to uſe the remedy which God hath given them againſt uncleanneſs.

11. If it be anſwered that there is difference in the caſe, becauſe the preſent queſtion being of ſhort, frequent and periodical ſeparations, the married perſons may expect Natures leaſure who will in a ſhort time return them to their uſual liberties: but if they have a leproſie, that goes not off, but abides: and therefore either a child muſt be gotten with that danger, or not at all; and ſince it is better for a child to be born a leper, or ſubject to leproſie then not to be at all; in this caſe there is indeed charity in ſome ſenſe, but no uncharitableneſs in any to the child; and there is a neceſſity alſo on the parents part. The ſame alſo is the caſe of a conſumption, or any hæreditary diſeaſe: but in the monethly ſeparations there is no ſuch need; becauſe the abſtinence is but ſhort, and though a child be not then begotten, he loſes not his being, as in the other caſes.

12. To this I reply; that the difference of case pretended is not sufficient, 1. because, a consumption or a leprosie are no such incurable diseases but that for the preventing of Uncharitableness, and sad effects upon the child, they may expect Natures time; and if it be said, that there is, or may be danger of fornication in so long abstinence; I answer, so there may be in the shorter, and is certainly to some persons; and if the danger be an excuse and can legitimate the congression even where there is hazard to have a diseased child begotten, in one case, then so it is in the other. For where there is the same cause in the same suscipient, there also will be the same effect: so that at least thus much will be gotten; that if there be a need, in the time of a short separation, then it is lawful; and if it can upon this account be innocent, it is certain that it is not naturally criminal. 2. Suppose even this affection or accident abides on the wife, as on the woman in the Gospel who after twelve years sufferance was cured hy the touch of our Saviours garment; then there is the same necessity as in an abiding leprosy, consumption, or hereditary disease, and yet in the Mosaick law those permanent emanations were to be observed by abstinence as much as the Natural and transient; by which it is certainly proclaimed to be wholly a legal rite; because if this can abide, and during its abode an approach be not permitted, although the Jewes were releeved by divorces and Polygamie, and concubinate, and so might suffer the law; yet Christians who are bound to an individual bed, will find a necessity, which if it were not provided for by a Natural permission, the case of some men would be intolerable and oftentimes sin be unavoidable, and that which by accident may be lawful and necessary, certainly is not essentially evil: for if it could, then he who is the Author of such necessity, would also necessarily inferre that evil, and so be Author of that too, which is impossible to be true of God, the fountain of Eternal goodness. But I adde also this consideration; that even in the Mosaick law such congressions were permitted after child-birth. For the legal impurity lasted but seven days upon the birth of a Man-child [*according to the dayes of the separation for her infirmity shall she be Unclean*] that is, for seven days she shall have the same law upon her as in her usual period, but no longer: for that which is added [*Levit.* 12. 4.] *that she shall then continue in the bloud of her purifying three and thirty dayes*; it is not for abstinence from her husband, but from entring into the Tabernacle, and from touching holy things: so that the uncleanness being determin'd five weeks before her purification was complete, must be in order to contact or to nothing.

13. But although upon supposition the allegation were true, yet the reason of it concludes not, yea the argument is infinitely the worse, since the supposition is false, and the Allegation is not true. For besides that the popular hæresies of Physick and Philosophy are now rarely confuted and reprov'd by the wise Physicians of these later ages, who have improved their faculty as much as any of the Schools of learning have done theirs, and the old sayings of Philosophers in this matter are found to be weak, and at the best but uncertain; the great experience of the world is an infinite reproof to them who say that by such congressions leprous or monstrous children are produced: for the world would have been long since very full of them if such evil effects were naturally consequent to those meetings. S. *Hierome* was the first who brought this pretension into the Christian Schools; (so far as I can learn;) afterwards the School-men got it by the end, and the affirmative hath pass'd ever since almost without examination. But the Schoolmen generally affirme (being taught to speak so by *Aquinas*) that it is partly ceremonial, partly moral, and

In 44. Isai.

Franc. à V. &. de Sacram. de read. deb. con.

that

that in this onely it is obligatory, *ex damno quod ſequitur ex prole*; which becauſe it hath no ground to ſupport it muſt fall into the common lot of fancies and errors when their weakneſs is diſcover'd. For although thoſe Phyſicians which ſay that this natural emanation is a καθαρσις or cleanſing, doe beleeve that with the principles of generation there may in ſuch times be ſomething *minus ſalubre* intermingled; yet beſides that theſe are oppos'd by all them who ſay it is nothing but a κένωσις or evacuation; both the one and the other are found to be imperfect, by the newobſervations and experiments made by a learned Man who finds that neither one or other can be the material part of Natures ſecret fabrick. But however, whether he ſays true or no, ſince things are ſo infinitely uncertain, and man is made ſecretly and faſhioned *in ſecreto terræ*, theſe uncertain diſputes are but a weak foundation of a pretence for a moral duty.

14. To the laſt objection: That *God abhorred the Nation for* [*all theſe things*] and amongſt them this is reckoned; and therefore there was in this ſome Natural impurity, for by no other law were they bound, and they could not be found to be tranſgreſſors againſt any other: I anſwer; that [*all theſe things*] are to be taken *Concretè & Confusè*, all indiſcriminately in an heap, not *all* by ſingular diſtribution; as appears (beſides this in queſtion) by the inſtance of marriage in certain degrees; which the ſervants of God did uſe, and yet God delighted in them; for *Abraham* married his Fathers daughter, and yet this was reckoned amongſt their Catalogues of crimes, and ſo alſo in the caſe of the Brothers wife, which is there reckon'd, yet we know it was permitted and enjoined in the caſe of heireſſes being childleſs widdows: but when this thing was by God inſerted into the Digeſt of their laws and made Capital, it happened to be mingled with other prohibitions which were of things againſt the laws of Nature. But to this objection I ſhall ſpeak again in the queſtion of Coſin Germans num. 36. and 37. of this Rule. Lev. 20. 17. 21.

15. The arguments now appearing to be invalid, I anſwer to the queſtion 1. That this abſtinence was a Moſaick law, partly ceremonial, partly judicial, but in no degree Moral. 2. That the abrogation of *Moſes* law does inferre the nullifying of this, and hath broken the band in pieces. 3. That the band which tyed this law upon the Jewes was fear of death and fear of a legal impurity: which fears being baniſhed, and no new one introduc'd by our Lawgiver, we are not under reſtraint: and if we will be careful to obſerve all that is commanded us in Chriſts law, it will be work enough, though we bind not on mens ſhoulders unneceſſary burdens. 4. It is a part of the ſpirit of bondage to be ſubject to ordinances; but God will now be ſerved by a more ſpiritual Religion, and to abſtain as in the preſent inſtance and to think it is a part of Gods ſervice, is ſuperſtition; it is to worſhip him with an inſtance that he hath not choſen, or commended: and therefore it is remarkable that when S. *Paul* gave order to married paires, μὴ ἀποστερεῖτε ἀλλήλους, *Defraud not one another*; he onely gives this exception, *except it be by conſent for a time, that ye may give your ſelves to faſting and prayer; and come together again, that Sathan tempt you not*, διὰ τὴν ἀκρασίαν ὑμῶν, *for your want of power* and command over your deſires and neceſſities. Abſtinence in order to ſpecial religion is allowed and commended, and that by conſent, and that but for a ſudden occaſion, and that ſo ſhort, that it may not become an occaſion of Satans temptations: whatſoever is over and beſides this may be upon the account of *Moſes*, but not of Chriſt and Chriſtianity. 5. I ſpeak this onely to take off a ſnare 1 Cor. 7.

from mens Consciences, laid for the unwary by *unskilful Masters of Assemblies* so that all I say of it, is, that it may be done lawfully. 6. But that which does onely recommend it, is, where there is necessity that it be done. 7. It is sufficient though the necessity be not absolute, if it be onely ordinary and probable: for if this were not so, instead of allaying stormes and appeasing Scruples and breaking Snares, they would be increased and multiplied: for it will be a hard thing in most cases of that Nature to say that the necessity is absolute. 8. But since there is in such congressions a Natural abhorrency amongst most persons, and a Natural impurity; if that which invites to it, be not at lest a probable necessity, it must be a great undecency and violence of a wanton Spirit. 9. It must alwaies be without scandal and reproach. For even among the Jews it was onely a legal impurity if done without scandal, but if with contumacy and owning of it, it came to outface the modesty and authority of the law, then it became deadly: and so it may now if that which is not of good report, be done and offered to the report of all them which can condemne the folly and impurity, but cannot judge of the necessity or the cause; and the fact by becoming scandalous is criminal, as much as when it is done without a probable necessity, and onely upon lustful consideration.

16. Some in their answers to this inquiry, make a distinction of the persons; affirming it in this case to be unlawful to ask, but lawful to pay a duty if it be demanded. But if it be Naturally unlawful it is then inexcusable in both: For neither must the one tempt to an unlawful act, nor the other consent to it: and there can be no obligation to pay that debt which no man can lawfully demand. Neither of them hath a right against Gods law; and therefore the case is equal in them both. He or she that complies does actually promote the sin, as well as the other that invites and therefore in *Moses* law they were equally criminal and punished with death. * But if it be not Naturally unlawful (as it appears it is not) then it may as well be demanded, as yeelded to; when there is a probable necessity; but concerning that, the passive party is to beleeve the other; for if it be known to be otherwise, he or she that consents, does consent to an act which is made unlawful by evil circumstances.

Of the prohibition of marriage in certain degrees.

17. But the next inquiry concerning an instance in the Judicial law is yet of greater concernment; For all those degrees, in which *Moses* law hath forbidden marriages, are supposed by very many now adayes that they are still to be observed with the same distance and sacredness, affirming because it was a law of God with the appendage of severe penalties to the transgressors it does still oblige us Christians. This question was strangely tos'd up and down upon the occasion of *Henry* the eighth's divorce from Queen *Katherine* the relict of his brother Prince *Arthur*; and according as the interest of Princes uses to doe, it very much imployed and divided the pens of learned men; who upon that occasion gave too great testimony with how great weaknesses men that have a Biasse doe determine questions, and with how great a force a King that is rich and powerful can make his own determinations. For though Christendome was then much divided, yet before then there was almost a general consent upon this proposition, that the Levitical degrees doe not by any law of God bind Christians to their observation. I know

but

but of one Schoolman that diſſents; I mean *Paludanus*; or if there be any more I am ſure they are but very few,

Vel duo vel nemo.——

but the other opinion

Defendit numerus, junctaq; Umbone Phalanges.

But abſtracting from all intereſts, and relative conſiderations, I ſhall give as full accounts of this as I can, becauſe the queſtions of degrees and the matters and caſes of inceſt are not ſo perfectly ſtated as the greatneſs of the matter and the neceſſities of the world require; and beſides this, it is at this day a great queſtion amongſt all men, *Whether Brothers and Siſters children, or Coſen Germans may lawfully marry?* which queſtion ſuppoſes that not onely the Levitical degrees are ſtill thought obligatory, but even all thoſe other degrees which by a parity of reaſon can be reduc'd to thoſe meaſures. I ſhall therefore give an account of the ſentence of all laws in this great queſtion, which can be ſuppos'd to oblige us.

Of Parents and Children.

18. Concerning this, I ſuppoſe it to be evident that Nature hath been as free in her liberties, as in her gifts,, open-handed enough to all; ſave onely that ſhe hath forbidden Parents and children, Higher and lower in the direct line for ever to marry. Juſt as Rivers cannot return to their fountains, nor Evenings back again to their own mornings from whence they ſet out, nor yeſterday be recalled and begin again to morrow. The Courſe and order of Nature is againſt it; and for a child to marry the parent is for to day to marry yeſterday, a going back in Nature.

——*illum, illum ſacris adhibete nefaſtis*
——*qui ſemet in ortus*
Vertit, & indignæ regerit ſua pignora Matri.

Papin. ſtat. Thebaid. 4.

19. To which may be added this other ſufficient Natural reaſon. That if a Son marries his Mother, ſhe who is in Authority greater by right of geniture, becomes *minor in Matrimonio* leſs upon the ſame material account upon which ſhe became greater; and the duty and reverence of a Mother cannot be paid to her by him who is her Husband: which I find well intimated by *Phædra* to *Hippolitus*,

Matris ſuperbum eſt Nomen, & potens nimis.

It is a contradiction of rights that the ſame perſon ſhould be the ſuperior Mother, and the inferior wife: whith hath alſo ſome proportion between a Father and a Daughter, as being undecent that ſhe from him ſhould claim the rights of a wife, to whom ſhe owes the duty of a Father.

20. Beſides theſe, there is a Natural abhorrency of ſuch mixtures: *Contra pudorem eſſe* ſaid *Paulus* the Lawyer; it is againſt Natural modeſty: which was rarely verified in the tryal which the Emperor *Claudius* made (wittily and judiciouſly, like that of *Solomon* upon the two harlots) upon a wicked woman who called him (who indeed was her ſon) a ſtranger, a begger, the ſon of another woman, and ſuppoſititious, that ſo ſhe might defeat him of his Fathers inheritance. The Emperor eſpying her Malice, and ſuſpecting her machination found out this tryal: If he be not your ſon, yet becauſe he is young and handſome, rich and poſſeſs'd of the inheritance, the title of which you would ſnatch from him, you ſhall marry him, and ſo poſſeſs him and the inheritance

too. She though desperately base, refus'd that offer, and though she was unnaturally malicious, yet would not be unnaturally incestuous; and chose to suffer the shame of discovery rather then the horrors of such a mixture.

21. But all this was not sufficient to make it to become a Natural law, without the authority of God intervening. This made it to be excellently reasonable to be established into a law, and therefore God did so, and declar'd it, and did not trust mans reason alone with the conduct of it: but then it became an Eternal law when God made it so: and that was at the very first bringing of a wife to *Adam*. *For this cause shall a man leave his father and his Mother*, (said God by his servant *Moses* declaring to us what God then made to be a law) *and shall cleave unto his wife, and they shall be one flesh*. This could not on both sides concerne *Adam*, who had no Natural Father and Mother, and therefore was a law given to all that should be born from him; when they took a wife or husband respectively, they must forsake Father and Mother, for between them and their children there could be no such intercourse intervening: and so the Jewes particularly *Rabbi Selomoh* expounds the place, and it was necessary this should then be declared, for as yet the marriage of Brother and Sister was not forbidden saith the *Gemara* Sanhedrin; and in obedience to this because *Adam* had no other, he laid aside the love of Earth and Rain, of which he was produc'd, said *Isaac Abravanel*: and by this, they usually reconcile the seeming difference between these words and the fifth commandement. A man shall leave his Father and Mother: and yet, he must honour his Father and Mother: he must never leave to honour them; but when he intends to marry, he must forsake all thoughts of contracting with either of them. Now the Mother and the wife being the opposite termes in the progression, he must leave one, and adhere or be united to the other, it must needs be that dereliction or forsaking, or going from the Mother, not relating to *Honour* but to the *Marriage*, means that the child must abstain and depart from all thoughts of such conjunction. A mother is not less to be lov'd, less to be honour'd after marriage then before; and therefore in no sense relating to this is she to be forsaken, therefore it must be in the other: and this, our Blessed Saviour recorded also in his law, where whatsoever is not sufficiently found, cannot pretend to be a law of Nature; as I have already prov'd.

Gen. 2. 24.

Matth. 19. 5.

22. And now this being established and recorded as a law of Nature in that way onely that is competent, the disagreeing sentences of some men, and the contrary practices of Nations is no argument against it. Indeed I said in the first Chapter, that the consent of Nations is not sufficient to establish a Natural law; for God onely makes the sanction, but when he hath made it and declar'd it, the disagreeing practices of great portions of the world cannot annul the establishment. It is not sufficient to prove it to be a Natural law because wise people consent to it; but if God have made it so, it is a Natural law though half the world dissents: and therefore we are not in this affair to be mov'd at all, if wise men should in any age affirme the marriages of Sons and Mothers to be lawful. * So *Diogenes* and *Chrysippus* affirm'd upon a ridiculous conceit that Cocks and Hens did not abhor it. Against which impertinent argument, although it were sufficient to oppose the Narrative which *Aristotle* makes of a Camel, and the Scythian horse who brake his own neck out of detestation of his own act to which he was couzen'd by his keeper; for

Hist. animal. l. 9. c. 46.
Plin. Nat. hist. 8. 42.
Varro de re rustica, 2, 7.

Feræ quoque ipsæ Veneris evitant nefas
Generisq; leges inscius servat pudor.

yet

yet it is better to ſet down this reaſonable propoſition; That a thing is againſt the law of Nature when (being forbidden by God) it is unnatural to Men, though it were not againſt the Nature of Beaſts. But as the authority of theſe Men is inconſiderable and their argument trifling, ſo alſo the diſagreeing practice of ſome Nations in this particular is wholly to be deſpiſed.

——Gentes tamen eſſe feruntur, Io Metam.
In quibus & nato Genetrix, & nata Parenti
Jungitur——————

The Aſſyrians, the Medes and Perſians, eſpecially the moſt honour'd Perſons amongſt them, their Kings and their Magi did uſe it frequently,

Nam Magus ex matre & Gnato naſcatur oportet.

23. But the Original and cauſe of this horrible and unnatural cuſtome we can ſo reduce to its firſt principle that there can remain no ſuſpicion but that they did prevaricate the law of Nature. For when *Nimrod* had married his Mother *Semiramis*, and preſently introduc'd the Worſhip of Fire, making that to be the Aſſyrians and Perſians God, he was gratified by the Devil. For (as *Saidus Batricides* the Patriarch of *Alexandria* reports) the Devil out of the fire ſpake to his firſt Prieſt that none ſhould officiate in his rites, unleſs he would firſt lie with his Mother, his Siſter, and his daughter. And *Sham* the Prieſt (for that was the name of the Beaſt) did ſo, and ſo together with his Prince became an Authentick preſident to all generations of degenerous brutes: and was imitated by all that Empire.

Τοιοῦτον πᾶν τὸ βάρβαρον γένος.
Πατρὶ ξυγαλεῖ, παῖς τε μιγεὶς μητρυιᾷ. Eur. in Andro.
Καὶ τῶν δ' ὧδ' ἐξείργε νόμος.

But what *Xenophon* ſaid of the Perſians is alſo true of all the Nations together, who were debauched by their laws and accurſed cuſtomes; *Non eò minus jus eſſe quia à Perſis contemnebatur.* It is ſtill the law of Nature though prevaricated by the Perſians and their ſubjects and friends. For when any thing appears to be ſo τοῖς πλείοσις, καὶ ἀδιαφθόροις, καὶ μετὰ φύσιν ἔχουσιν, to moſt and to the uncorrupted Nations and to them who live according to Natural reaſon it is a great preſumption it is indeed a Natural law; and is ſo finally if a command of God hath interven'd in that inſtance: for by the Divine appointment it is made *a law*, and by the matter, order and uſe of it, it is *Natural.* But for the reſt to whom theſe things ſeem'd otherwiſe then God and Nature did decree: they were abuſed by none but by their own luſts; they were as a puniſhment of their vileſt ſins given over εἰς πάθη ἀτιμίας, to unnatural, to diſhonourable, and unreaſonable deſire, Michael Ephe. in Ariſt. ἠθικ. Ad Nicomach.

——Cui fas implere Parentem
Quid rear eſſe nefas?

But this was the product of their *idolatry* and ſome other baſeneſſes: of the firſt S. *Paul* is witneſs, that as a conſequent of their forſaking the true God they were given over to Unnatural luſts: and *Lucan* obſerves the latter of the Parthians, Rom. 1. 21. &c.

——epulis veſana meróque
Regia, non ullos exceptos legibus horret
Concubitus——————

Now what is the effect of ſuperinduc'd crimes and follies is moſt contrary to Nature, and it were unnatural to ſuſpect that ſhe had not made ſufficient proviſions in this prime caſe, upon pretence, becauſe ſome unnatural perſons have ſpoil'd and defac'd or neglected her laws. One thing by the by I ſhall Vide Tiraq. l. 7. connub. n. 22.

inſert:

inſert. I find *Socrates* noted by ſome that he ſaid there is in the marriage of of Parents and children nothing to be reprov'd but the diſparity of age. But this is a miſtake; for though he brought that incompetent reaſon againſt it, yet for other cauſes he abhorr'd it: accounting it to be a law eſtabliſhed by God and Nature μήτε γονέας παισὶ, &c. That Parents and children ſhould abhor ſuch marriages. For God and all the world, Heaven and earth doe ſo: inſomuch that a Roman Philoſopher was in his dream warned not to bury the corps of a Perſian who had married his Mother.

Xenoph. l. 3. ἀπομνήμ.

Μὴ θάψῃς τὸν ἄθαπτον, ἅτα κοινὰ κύρμα γενέθαι,
Γᾶ πάντων μήτηρ μιξοφθόρον δ' ἔχει ἄνδρα.

Agath. hiſt. 2. The Earth who is the common Mother of all, will not receive into her womb him that defil'd the Womb of his Mother: and the ſtory ſays, that the ground ſpued out the corps of ſuch a one that had been buried: And *Virgil* affirmes that in hell there are torments prepar'd for him

Lib. 6. *Qui thalamum invaſit Natæ, vetitóſque Hymenæos.*

who pollutes his Daughters bed, and defiles himſelf with ſuch forbidden Entertainments.

Of Brothers and Siſters.

24. 2. But though Nature forbids this, yet the other relations are forbidden upon other accounts. Nothing elſe is againſt the prime laws of Nature, but a conjunction in the right aſcending and deſcending line. The marriage of Brothers and Siſters was at firſt neceſſary; and ſo the world was peopled: all the world are ſons and daughters deſcending from the firſt marriages of Brother and Siſter. But concerning this that I may ſpeak clearly, let it be obſerved that although the world does generally condemn all ſuch and the like Marriages under the title of *Inceſtuous*, yet that is not properly expreſſed, and leaves us to ſeek for the juſt grounds of reproof to many ſorts of unlawful marriages, and ſome others are condemn'd by too great a cenſure. The word *Inceſt* is not a Scripture word, but wholly Heathen; and ſignfied amongſt them all unchaſt and forbidden marriages, ſuch which were not hallowed by law and honour; an inauſpicious conjunction *ſine ceſto Veneris*, in which their Goddeſs of Love was not Preſident; marriages made without her girdle, and ſo *Ungirt*, *Unbleſs'd*. This word being taken into the civil law got a ſignification to be appropriate to it; for there were three degrees of unlawful marriages. *Damnatæ*, *Inceſtæ*, and *Nefariæ*. *Damnatæ nuptiæ* are ſuch which the law forbids upon Political conſiderations; ſuch as are between the Tutour or Guardian and the Orphan or Pupil, between a Servant and his Miſtreſs, between a Freed-man and his Patroneſs, and ſuch was in the law of *Moſes* between the High prieſt and a Widow; and in Chriſtianity between a Prieſt and a Harlot, and between any man and her whom he defil'd by Adultery while her firſt huſband was alive, all Marriages with Virgins profeſſed and vowed. There is in theſe ſo much unreaſonableneſs of being permitted, that by the law they ſtood condemned, and had legal puniſhments and notes of infamy proportionable. * *Inceſtæ nuptiæ* are defin'd in the law to be *coitio conſanguineorum vel affinium*; the conjunction of Kinred or Allyes, meaning, in thoſe inſtances which are by law forbidden: and theſe are forbidden upon differing conſiderations from the former, viz. for their neerneſs of bloud and relation which the laws would have diſſeminated more or leſs: for their approach to unnatural marriages, for outward guards to the laws of Nature, for publike honeſty, and compliance with the cuſtomes of their Neighbours, of the ſame intereſt or the ſame religion, or for neceſſary entercourſe. But becauſe unskilful perſons

C. lex illa. §. inceſt. 36. q. 1. L. ſi adult. cum inceſt. in prin. D. de adult.

ſons or unwary have called *Unnatural* mixtures by the name of *inceſtuous*, as inceſtuous *Lot*, and the inceſtuous Corinthian, thererefore whatever any law calls *inceſt*, they think they have reaſon to condemn equally to thoſe abominable conjunctions. But neither ought *inceſt* to be condemn'd with a hatred equal to what is due to theſe; neither ought theſe to be called *inceſt*: for in true ſpeaking theſe are not *Inceſtæ nuptiæ*, but *Nefariæ*, and *Naturæ contrariæ*, wicked or abominable, and contrary to Nature: for although the law ſometimes calls thoſe mixtures which are between Kinred by the title of *Nefariæ*, or Impious, yet it is to be underſtood onely of that Kinred which is by the law of God and Nature forbidden to marry: ſo the *Gloſſe in authentic. de inceſt. nupt.* affirmes, ſo *Archidiaconus*, *Johannes Andreus*, *Covarruvias* and the beſt Lawyers: and the word is derived from the uſage of it in the beſt Authors: *Feræ quoque ipſæ veneris evitant Nefas*; The conjunction of Parents and children is *nefas veneris*, and the marriages *nefarious*. Now of this deep tincture none are, excepting marriages in the right aſcending and deſcending line. The marriages of Brothers and Siſters is inceſtuous, and the worſt degree of it: and ſo forbidden by the laws of all civil Nations; but therefore they are unlawful onely becauſe forbidden by poſitive laws; but becauſe the prohibition is not at all in the laws of Chriſt, therefore it cannot be accounted againſt the prime law of Nature, of which that is a perfect Syſteme. Not that it can in any caſe of preſent concernment or poſſibility become lawful, or for any reaſon be diſpenſed withall by any power of man; for it is next to an unnatural mixture, it hath in it ſomething of confuſion, and blending the very firſt partings of Nature, it is of infinite vile report, intolerably ſcandalous, and univerſally forbidden. But though this be enough, yet this is all:

Text. in authentic. de inceſt. nupt. in p. inc. collat. 1.

C. cum ſecund. leges de haret. in 6.

25. *Michael of Epheſus** ſaies that at the firſt theſe marriages were indifferent, but made unlawful by a ſuperinduc'd prohibition. And indeed if they had been unnatural, they could not have been neceſſary. For it is not imaginable that God who could with the ſame facility have created a thouſand men and as many women, as one, would have built up mankind by that which is contrary to Humane Nature: and therefore we find that among the wiſeſt Nations ſome whom they eſteemed their braveſt men did this. *Cimon* the ſon of *Miltiades* married his Siſter *Elpinice*, *non magis amore quàm patrio more ductus*, ſaid *Æmilius Probus*, not onely led by love but by his Countries cuſtome. So *Archetolis* the ſon of the brave *Themiſtocles* married his ſiſter *Mnaſiptolema*. *Alexander* the ſon of *Pyrrhus* King of *Epirus* married his ſiſter *Olympias*, *Mithridates* married his ſiſter *Laodice*, *Artemiſia* was ſiſter and wife to *Mauſolus* King of *Caria*, ſo was *Sophroſyna* to *Dionyſius* of *Syracuſe*, *Eurydice* to *Ptolemæus Philopater*, *Cleopatra* to *Ptolemæus Phyſcon*, *Arſinoe* to *Ptolemæus Philadelphus* whom when *Sotades* had reprov'd upon that account ſaying, ἐκ εἰς ὀσίλυν τρυμαλιὰν τὸ πέσζον ὠθεῖς, he impriſon'd him. But I need not bring particular inſtances of Egyptians: for *Diodorus Siculus* affirmes that they all eſteem'd it lawful, and *Dion Pruſæenſis* ſaies that all the Barbarians did ſo.

In 5. ad Nic.

Plut. in Them.

Vide Lucian. l. de ſacrificiis.

26. But all the Greeks did ſo too, having learnt it from their firſt Princes, whom after ages had turn'd into Gods,

——*Dii nempe ſuas habuere ſorores*
Ut Saturnus Opim junctam ſibi ſanguine, junxit
Oceanus Tethyn, Junonem Rector Olympi.

Though I ſuppoſe that this is but a fabulous narrative in imitation of the ſtory of *Cain* and *Abel*, as appears by their tale of *Jupiter* and *Prometheus*; which is well

Vide Alex. ab Alexan. l. 1. c. 24. Genial. dierum.

well noted by the obſervator upon the Mythologies of *Natalis Comes* under the title of *Jupiter.* But that which moves me more then all this is the anſwer which *Thamar* gave to her Brother *Amnon: Now therefore ſpeak unto the King, for ſurely he will not withhold me from thee,* and yet ſhe was his Fathers daughter, his ſiſter by the Paternal line: and *Abraham* told the King of *Gerar* concerning *Sarah* his wife; and yet indeed ſhe is my Siſter, ſhe is the daughter of my Father but not the daughter of my Mother, that is, the daughter of *Terah* as was generally ſuppos'd, of which I ſhall yet give further accounts. * Now it is not to be ſuppoſed that either *Abraham* before or *David* after the law would have done or permitted any thing againſt the law of Nature: and if it was againſt a poſitive law, as it hapned in the caſe of *Amnon* and *David*, the marriage might be v lid though forbidden, and the perſons be excuſed upon ſome other account, which is not proper here to be conſidered.

27. But I again renew what I ſaid before, th's d ſcourſe is not intended ſo much as ſecretly to imply that it can now at all be or be made lawful, or is at any hand to be indured. For the marriage of Brother and ſiſter is againſt a ſecondary law of Nature; that is, it ſtands next to the Natural prohibition and is againſt a Natural reaſon, though not againſt a prime Natural law. Every reaſon indeed is not a ſufficient indication of a law, nor a Natural reaſon of a Natural law; but when the reaſon is eſſential to Nature or conſign'd by God, then it is: and as a reaſon approaches neerer to this, ſo the action is more or leſs Natural or Unnatural: and this is the caſe of Brother and Siſter. For the reverence which is due to Parents hath its place here alſo *propter recentem admodum parentum in liberis imaginem*; and therefore it is with greater reaſon forbidden: and if it were not, the whole world might be filled with early adulteries. For the Dearneſſes of Brother and Siſter, their cohabitation, their likeneſs of Nature and manners, if they were not made holy and ſeparate by a law would eaſily change into Marital loves, but their age and choice would be prevented by their too early careſſes: and then ſince many Brothers might have the ſame kindneſs to one Siſter, or might have but one amongſt them all, the miſchief would be horrible and infinite.

Mecam. l. 9. *Dulcia fraterno ſub nomine furta tegemus:*
Eſt mihi libertas tecum ſecreta loquendi:
Et damus amplexus, & jungimus oſcula coram,
Quantum eſt quod deſit?

28. For theſe and other accounts, which God beſt knew, he was pleas'd to forbid the Marriage of Brothers and Siſters: This law the Jewes ſay, God gave to *Adam* under the title *De non revelanda turpitudine*; but yet ſo, that it was not to be of force till Mankind were multiplied: but then it took place as men did pleaſe. But this they ſay upon what ground they pleaſe; for it is highly improbable that the law of Nature ſhould be allowed years of probation, or that it ſhould be a prime law of Nature, which the Nature of things and the conſtitution of the world did make neceſſary to be broken. But becauſe God did afterwards make it into a law, and there is now very great reaſon that it ſhould be a law, and the reaſon is Natural, and will be perpetual, and all Chriſtian Nations, and all that have any form'd religion have agreed to prohibite ſuch marriages; He that ſhall doe ſo unreaſonably, and as things now ſtand, ſo unnaturally and ſo fooliſhly as either to doe it, or teach it, muſt be of no religion, and of no people, and of no reaſon, and of no modeſty.

Of

Of Mothers in law, and their Husbands Children.

29. That the marriage of theſe is not againſt the law of Nature S. *Auſtin* does expreſsly affirme in his queſtions upon *Leviticus*; ſaying that there is forbidden the diſcovering his Fathers nakedneſs; but this is not to be underſtood of the Father while he is alive, for that is forbidden in the prohibition of Adultery; *Sed ibi prohibetur Matrimonium contrahi cum illis quas ſecluſâ lege licet Uxores ducere*; marriage is there forbidden to be made with them with whom otherwiſe it were lawful to contract: But for this there can be no no reaſonable and fair pretence. For a Mother in law and a Mother are all one in the eſtimation of all the laws of the world, and therefore were alike in the prohibition: and the contrary was never done but by them who had no pretence for it, but *quod libet licet*; whatſoever a man hath a mind to doe that he may doe: for this was the argument which *Phædra* courts *Hippolytus* withall.

Nec quia privigno videar coitura noverca
Terruerint animos nomina vana tuos.
Iſta vetus pietas ævo moritura futuro
Ruſtica Saturno regna tenente fuit.
Jupiter eſſe pium ſtatuit quodcunque juvaret;
Et fas omne facit fratre marita ſoror.

The impiety of their Gods ſeemed to be their warrant, and their pleaſure was all theit reaſon, their appetite was their argument. But this we find ſufficiently condemned by S. *Paul*, *it is a fornication which is not ſo much as named amongſt the Gentiles, that one ſhould have his Fathers wife.* *Cajetan* ſuppoſes that this Corinthian did lie with her while his Father was alive; becauſe the Apoſtle calls her not the widow, but the wife of his Father. I am of his opinion, but not for thát reaſon; becauſe that expreſſion he uſes not ſo much to deſcribe the perſon as to aggravate the crime: but that it was in his Fathers life time I am induc'd to beleeve by the word πόρνεια, *fornication*, which though it be often uſed for *adultery*, yet I find it not us'd for *nuptiæ nefariæ*, or that which is uſually called *inceſt*. But however, that which S. *Paul* notes here and ſo highly abominates is not the adultery, but the impiety of it; not that it was a wife, but his Fathers wife; and therefore although even ſo it were a high crime and of a deep tincture, yet the unnaturalneſs and the ſcandal of it S. *Paul* here condemnes: It was the ſame that *Antiochus* did to *Stratonice* the wife of his father *Seleucus*, and that which *Reuben* did to the Concubine of his Father *Iacob*; a thing ſo hateful to all Nature that the very naming of it is a condemnation; and therefore is all one with the prime Natural law of prohibition of the conjunction of Parents and Children: for ſhe that is one fleſh with my Father, is as neer to me as my Father, and thats as neer as my own Mother; as neer I mean in eſtimation of the law, though not in the accounts of Nature, and therefore though it be a crime of a leſs turpitude, yet it is equally forbidden and is againſt the law of Nature, not directly, but by interpretation.

Of Uncles and Nieces.

30. Now if the neereſt of kin in the collateral line were not forbidden by a law of Nature, much leſs are they primely unlawful that are further off. The Aſcending and Deſcending line cannot marry, but are forbidden by God in the law of Nature: So Mothers in law and their Husbands children: And Brothers and Siſters are by the laws of all the world, and for very great reaſon forbidden, but not by the law of Nature. But for all other degrees of Kinred

it

it is unlawful for them to marry interchangeably when and where they are forbidden by a positive law, but not else; and therefore the marriages of Uncles and Nieces, or Aunts and Nephews become unlawful as the laws of our superiors supervening make it so, but was not so from the beginning, and is not so by any law of Christ.

31. In the Civil law of the Romans it was lawful for the Uncle to marry the Brothers daughter, and this continued by the space of 250 years from the dayes of *Claudius* to the reign of *Constantine* or thereabouts: and though this began among the Romanes upon the occasion of *Claudius* his marrying *Agrippina*, yet himself affirmes (as *Tacitus* makes him to speak) *Nova nobis in Fratrum filias conjugia, sed aliis Gentibus solennia, nec lege ullâ prohibita.* Indeed it is new to us but to other Nations usual and lawful: and the newness of it scar'd *Domitian* so that he refus'd it; and not many did practise it; onely I find that a poor obscure Libertine *T. Alledius Severus* did it, as *Suetonius* observes: but it was made lawful by the Civil law, and allowed in the rules of *Ulpian*; and when *Nerva* had repeal'd the law, *Heraclius* reduc'd it again and gave the same permissions.

Lib. 12. Annal.

32. But that which moves me more is that it was the practice of the Jews, the family of *Abraham*, and the Councel of the wise men to doe so, as *Ben Maimon* the famous Jew reports. *In monitis sapientum habetur ut in uxorem ducat quis ante alias, neptem ex sorore, seu ex fratre neptem, juxta id quod dicitur, a carne tua nè te abscondas:* And *Josephus* does suppose that when *Abraham* said of *Sarah*, she is my Sister the daughter of my Father, the truth is, she was his Fathers Grandchild, that is, the Daughter of *Abrahams* brother: for unless it had been a known thing in that Nation that *Abraham*'s family would not have married their German Sisters, it could have been no security to *Abraham* to pretend her to be so: for she might be his wife and his sister too, unless such marriages had been unlawful and rejected. But then when *Abraham* was reprov'd for his lie, he help'd the matter out with a device; she was his Fathers daughter, that is, by the usual idiome of that family, the child of his Father descending by his brother: and this was S. *Austin*'s opinion, *Nam qui maximè propinqui erant solebant fratres & sorores appellari*, and *Cicero* calls his Cosen *Lucius*, *Brother*; so *Lot* is called *Abrahams Brother*, though he was but the son of his Brother *Haran*, just as neer as his wife *Sarah* was to him, whom for the like reason he called Sister. But of this I shall yet give a farther account. But whether *Josephus* said true or no, *Abraham* said true, thats certain; either she was his half Sister or his Brothers daughter; either of which is forbidden in *Leviticus*; and this sufficiently declares that they have their unlawfulness from a positive law, not from any law of Nature.

L. 15. de civit. D. c. 16.
L. 5. de finib.
Gen. 13. 8.

33. If it were needful to instance in any other great examples of such marriages, it were very easie to doe it. *Amram* the Father of *Moses* married his Aunt as some suppose, *Diomedes* and *Iphidamas* among the Greeks married their Mothers Sisters, and *Alcinous* took to wife *Arete* his Brothers daughter. *Andromede* was promised to her Uncle *Phineus*. One of the *Herods* married his Brothers daughter, and yet was not (so fas as we find) reproved for it; and he gave his own daughter to his Brother *Pherotas*; and some suppose this to be the case of *Othniel* in the dayes, and under the conduct of *Joshuah*. For the words in the story are these, [And *Othniel* the son of *Kenaz* the Brother of *Caleb* took it: and he gave him *Achsah* his daughter to wife:]

Jos. 15. 17.

wife: but of this I ſhall give a particular account: for this being againſt the law of *Moſes* by which they were bound, was not to be ſuppoſed eaſily to have been done by ſo piouſperſons: but all that I contend for, is, that it was not unlawful before the law of *Moſes*: againſt theſe marriages there was no *opus ſcriptum in cordibus*, no law of Nature, but they became unlawful upon another account, and therefore it was unlawful to them onely to whom that account was to be reckon'd.

Of the marriage of Coſen Germans.

34. From the premiſes it will abundantly follow, that no perſon ought to be affrighted with the pretences of any fierce and miſperſwaded perſon that the marriage of Coſen Germans is againſt the law of Nature: and in this caſe a man need leaſt of all to fear; for the law of Nature is a known and evident thing, it is notorious and felt, and if any man ſhall need to be told what is againſt Natural reaſon which is the matter out of which all Natural laws are fram'd, he may as well have need to be reminded when he is hungry or thirſty. For although ſome perſons have got a trick to ſcare their Proſelytes from a practiſe to which they have no mind, by telling them it is againſt the law of Nature, when they can prove it upon no other account to be unlawful, ſo making the law of Nature to be a ſanctuary of ignorance and an artifice to ſerve their end, juſt as the pretence of occult qualities is in natural Philoſophy; yet concerning the law of Nature, it being imprinted in our hearts, explicated by Chriſtianity, relying upon plain, prime, Natural reaſon, a man may as much need to be told when himſelf does a thing againſt his own will, as when he does againſt his own reaſon and his own Nature. Onely it is certain that when education and our Countrey Cuſtomes have from the beginning poſſeſſed our underſtandings and our practices, ſo that we never ſaw any other uſage of things or heard talk of any other, it looks as if it came from Nature and were ſomething of her eſtabliſhment: So S. *Paul* to the Corinthians, *does not even Nature her ſelf teach that it is a ſhame for a man to wear long hair?* That is, even in Nature there is the ſignification of ſome difference in that matter, which cuſtome hath eſtabliſhed into a law: but in ſuch caſes as theſe, a wiſe man can eaſily diſtinguiſh words from things, and appearances from firm eſtabliſhments. But that the law of Nature hath nothing to doe in the marriage of Coſen Germans, ſave onely that ſhe hath left them to their liberty, appears from all the premiſes, which in this inſtance as being farther remov'd muſt needs conclude ſtronger then in their own.

35. But then in the next place if the inquiry be made what it is in the judicial law of *Moſes*, which is the main of our preſent inquiry; ſuppoſing the judicial law of *Moſes* could in any of its inſtances oblige Chriſtians, yet Coſen Germans were ſtill free to marry: for I doe not ſo much as find it pretended by any one to be there forbidden, except S. *Ambroſe*, who diſputing fiercely againſt *Paternus* for marrying his ſon to his Granchild by another venter, that is, ſo as the young Gentleman was Uncle to his wife, in anger againſt that, ſaies that by the law of God (meaning in *Leviticus*) Coſen Germans are forbidden to marry, much more (ſaies he) Uncle and Niece: *Qui enim leviora aſtringit, graviora non ſolvit ſed alligat.* He that binds to the leſs, does not untie the greater. But the event of this, is, onely that S. *Ambroſe* is by all learned men condemn'd for an ἁμάρτημα μνημονϵυτικὸν a ſlip in his memory: and men ought to be wary leſt great names abuſe them by opinion and miſtaken zeal.

S. Amb. ep. 66. ad Paternum.

But the law is this, Levit. 18. 6.

None of you ſhall approach to any that is neer akin to him, to uncover their Nakedneſs, I am the Lord.

Here the Queſtions uſe to be,

1. What is meant by [None of you?]
2. What is intended by [Neer of Kin to you?]

36. None of you] *Vir vir non accedet:* ἀνθρωπος ἀνθρωπος in the Lxx. *A man, a man ſhall not approach*; ſo it is in the Hebrew: that is, ſay the Rabbins, the Jew and the Gentile ſhall not. I ſhall not contend for it, or againſt it. I ſuppoſe it may well be admitted that potentially all mankind was included, that is, all who were borne to Iſrael, or adopted by being Proſelytes were bound to this law, Jews and Gentiles too when they became Jews in religion, but that it included others that converſed not with the Nation, that were ſtrangers to their laws, is as if we ſhould ſay the Parthians were to be judg'd by the Gallick laws, or the Perſians guided by the Greeks. But the purpoſe of them who would introduce this ſenſe, is, that it might be intimated that theſe degrees here mention'd were forbidden by the law of Nature, and conſequently obliging all Chriſtendome: the contrary whereof becauſe it appears from the premiſes, I ſhall onely adde, that no Nation of old did obſerve all theſe laws, and that there was never any ſufficient argument to inforce upon us their obligation, and becauſe it muſt needs remain to us as it was before the law, if they were not obliged then neither are we. But this I ſuppoſe they *might be*, and ſome of them were oblig'd by ſpecial laws before the collection and publication of the body of *Moſes* law. For as the law of Chriſt is a collection and perfect explication of the law of Nature and eſſential reaſon: So *Moſes* law was a collection of all the wiſe and prudent laws by which God govern'd thoſe Nations and thoſe ages which were before *Moſes*. Thus the law of the Sabbath was one great member of this collective body of the Moſaick law; but it was given before the ſolemnities of Mount *Sinai*. The law that the Brother ſhould raiſe up ſeed unto his Brother who dyed without iſſue, was alſo given to that family before the publication of it by *Moſes* as appears in the ſtory of *Judah* and *Thamars* quarrel about *Onan* and the reſt. And thus alſo I ſuppoſe that all or moſt of theſe laws of marriage were given to the nations of the Eaſt and South, deſcending upon them by the tradition of their fore-fathers; from God derived to *Adam* in part, and in part to *Noah*, and ſomething of it to other Patriarchs and eminent perſons, and at laſt by the commandement of God united into a Digeſt by *Moſes*.

37. And upon this account it is that God ſaid that the Canaanites had polluted themſelves in all theſe things, and therefore the land did ſpue them out, which although it cannot infer that theſe laws did Naturally oblige, as I have already diſcourſed*, yet that they were by ſome means or other bound upon them is probable enough, though in this matter there be no certainty. But in this there is; For that all mankind was not bound by all theſe laws of conſanguinity and affinity appears in all the foregoing inſtances: and the marriages of the Patriarchs muſt conclude them to be as impious as the Canaanites in theirs, or elſe that theſe laws did not oblige all Mankind: and if not from the beginning, then not now: if theſe laws were not natural, they are not Chriſtian, which alſo will further appear in the ſequel.

* Supra n. 14.

2. But

2. But there will be more consideration upon the second Quære; what is meant by [Neer of Kin to you?]

38. Our English is not sufficiently expressive of the full sense of it. The Latin is something neerer to the Hebrew, *Vir vir non accedet ad propinquitatem carnis suæ*; to the neerness of his flesh, πρὸς οἰκεῖα σαρκὸς, or as other books πρὸς οἰκείαν σαρκὸς, *ad domesticam carnis suæ*, to her that is so neer of Kin, that they usually dwell in the same house, that is, Parents and Children Brothers and Sisters, or our Parents Brothers and Sisters. In these cases there being ever the same account of consanguinity and affinity; this rule takes in all that is there forbidden. But it is highly observable that there is great difference between *Propinqui* and *Cognati*. God never forbad to marry our Kinred, but he forbad to marry the neerness of our flesh. Which Phrase when we rightly understand this whole question will be quickly at an end.

39. For [Neer of Kin] is an indefinite word and may signifie as uncertainly as [great] and [little] doe: nothing of it self determinately, but what you will comparatively to others: and it may be extended to all generations of mankind where any records are kept, as among the Jews they were: from *Judah* to *Joseph* the espoused of the B. Virgin, from *Benjamin* to *Michol*, from *Levi* to *Heli*: and thus it is in great proportion amongst the Spaniards and Welch, and in all Nations in their greater and more noble families. The Welch doe to this day esteem him neer of Kin to them whom the English doe not: and since we see the prohibition of marriage with Kinred hath been extended sometimes, and sometimes contracted, it is necessary that all Lawgivers doe express what is meant by their indefinite terms.

40. *Hemingius* gives a rule for this as neer as can be drawn from the words and the thing. *Propinquitas carnis* (saies he) *quæ me sine intervallo attingit.* That is, she that is next to me, none intervening between the stock and me: That is, the propinquity or neerness of my flesh above me is *my Mother*, below me is *my Daughter*, on the side, is *my Sister*, This is all: with this addition that these are not to be uncover'd for thy own sake; thy own immediate relation they are: All else which are forbidden are forbidden for the sakes of these: for my Mothers or my Fathers, my Sons or my Daughters, my Brothers or my Sisters sake; onely reckon the accounts of affinity to be the same: *affinitates namque cum extraneis novas pariunt Conjunctiones hominum, non minores illis quæ è sanguine venerunt:* said *Philo.* Affinity makes conjunctions and relations equal to those of Consanguinity: and therefore thou must not uncover that Nakedness which is thine own in another person of blood or affinity, or else is thy Fathers or thy Mothers, thy Brothers or thy Sisters, thy Sons or thy Daughters nakedness. This is all that can be pretended to be forbidden by vertue of these words [Neer of Kin] or [The neerness of thy flesh.] De leg. special.

41. And this we find expressed in the case of the high Priests mourning: *The High Priest might not be defiled for the dead among his people, but for his kin that is neer unto him, he may*; that is, For his Mother and for his Father, and for his Son and for his Daughter, and for his Brother, and for his Virgin Sister. This is the *propinquitas carnis*, she that is immediatly born of the same flesh that I am born of, or she out of whose flesh I am born, or she that is born out of my flesh, is this [Neer of Kin.] There is no other propinquity but these, *all else are remov'd*; and when a bar does intervene, all the rest are or may be accounted *Kinred*, but *not neer of Kin*, not the neernes of my flesh, which only is here forbidden. Le. it. 21. vers. 2.

42. Onely this more: That since the prime Natural law does forbid the marriage of the ascending and descending line, that is, Fathers and children, and so consequently and by a stronger reason, Grandchildren, and downwards for ever in descent; God was pleased to set a περιφυλακὴ, a bar and a hedge round about this to keep men off, far off from it, that if men would be impious they might not at first come to the highest step: and therefore as God plac'd the prohibition of Brother and Sister under, so on the side of it he forbad the marriage of Uncles and Aunts: for they are thy Fathers or thy Mothers *neer Kin*, they are to them the *propinquitas carnis*; therefore for the reverence of Father and Mother the Jews were bidden to keep of one step more, for the last step of lawful is soon pass'd over into the first step of unlawful, and therefore God was pleas'd to set them further off. And the Christian Divines and Lawyers well understanding this, express the prohibition to this sense; that Uncles and Aunts are not to be married, because they are *loco Parentis*, they are *quasi Parentes*, images of Fathers and Mothers, for the reverence of which, the marriage of our Uncles and Aunts respectively are forbidden. * This is just as it was forbidden to the Jews *to make an image*; which thing could not have any Moral or Natural obliquity; but it was set as a περιφυλακὴ, a guard and a hedge to keep them off from worshipping them, The case is the same here: For the Jews were as apt to comply with the Egyptians and Canaanites in their incestuous mixtures, as in their idolatrous worshippings; but therefore the hedges were plac'd before them both. But half an eye may see the different accounts upon which in this place there was pass'd an equal prohibition.

43. But besides all this, what better determination can we have of these indefinite words of [*Neer of kin*] or [the neerness of thy flesh] (for those are the words in the Hebrew, so they are to be rendred) then the express particulars made by God himself in that very place; where none are reckon'd in the *equal collateral line*, but Brothers and Sisters and their *affines* or allies, their Husbands and wives respectively; none in the *Unequal collateral line*, but Uncles and Aunts and their allies; in the ascending and descending line, Fathers and Mothers, their children and their Grandchildren with their allies; in all which there is nothing at all that concerns Cosen Germans, neither upon any thing of this account can they be suppos'd to be forbidden, or to be *the neerness of our flesh*.

44. But if any scrupulous person shall inquire further and suspect that some degrees or persons are forbidden to marry that are not here expressed, but included by a parity of reason, as it happens in another instance: for it is not forbidden to marry our Mothers Brothers wife; but because here it is made unlawful to marry Fathers Brothers wife, it is to be concluded also for the other, there being the same degree and the same reason.

45. I answer to this by parts; 1. It is very likely that it is so intended that in equal cases there is an equal prohibition; but it cannot certainly be concluded and relied upon that it is so. 1. Because upon this account cases of fear and scruple might very much be multiplied to no purpose. For I remember that *Fagius* reckons out of the books of the Rabbins twenty persons forbidden to marry, which yet are not reckon'd in *Leviticus*. 2. Because of the rule of the law. *l. Mutus* 43. *D. de procur. Quòd lege prohibitoriâ non vetitum est, permissum intelligitur.* In negative precepts that which is not forbidden, is presumed to be allowed. And to adde more out of fear is either to be wiser then the Lawgiver, or to suspect him to be apt to quarrel by unknown measures, and secret

ſecret rules of interpretation. 3. Becauſe I find that amongſt wiſe Nations the ſame degree does not alwaies admit the ſame prohibition. To marry my Fathers Siſter was forbidden, and it was not forbidden to marry my Brothers daughter, but it was ſometimes practis'd amongſt the Hebrews; and they give this reaſon for it; becauſe young men daily frequenting the houſes of their Grandfathers and Grandmothers converſe with their Aunts, and are therefore forbidden to marry leſt ſuch converſation ſhould become their ſnare: but to the houſes of their Brethren their addreſs is not ſo frequent, their converſation more ſeparate, and their intereſt and expectations leſs, and therefore to marry the daughters of their Brother might with more ſafety be permitted becauſe there is leſs temptation. Thus by the laws given to the ſons of *Noah*, the Jews obſerve that it was permitted to marry the Siſter by the Fathers ſide, but not our Siſter by the Mother. It was *Abraham*'s caſe; for as *Saidus Batricides* the Patriarch of *Alexandria* about 700 yeers ſince in his Eccleſiaſtical Annals tells out of the Monuments of the Eaſt: » *Thare* begat *Abraham* of his firſt wife *Jona*, and ſhe being dead he married *Tebevitha*, and of her begat *Sarah*, *Abraham*'s wife: and this is it which he ſaid, [ſhe is the daughter of my Father, but not the daughter of my Mother:] from whence they ſuppoſe this not to be permitted, and that the other was; for ſo *R. Jarchi* gloſſes thoſe words of *Abraham* now quoted: *Quoniam inter gentes ratio conſanguinitatis Paternæ nentiquam habebatur:* becauſe among the Gentiles (meaning, by the law of Nature, or the law given to *Noah*) there was little or no account made of Kinred by the Fathers ſide in the matter of marriages. * So amongſt the Romans after the time of *Claudius*, it was permitted to marry the Brothers daughter, but not the Siſters daughter, as appears in the rules of *Ulpian*, but the reaſon of this particular inſtance I confeſs I cannot learn, I onely obſerv'd it to this purpoſe that amongſt wiſe Nations, the ſame degree hath not the ſame prohibition.

46. But I am willing enough to admit it with theſe cautions. 1. That there be not onely the ſame degree but the ſame reaſon: For as *Ulpian* well obſerves in his rules: *In quarto* [*gradu*] *permittitur* [*connubium*] *extra eas perſonas quæ parentum liberorúmq; locum habent:* therefore ſaies he they adde that the Great Aunt by the Fathers and by the Mothers ſide, and the Siſters neece may not be married *quamvis quarto gradu ſint*, although they are in the fourth degree: becauſe the prohibition is not alwaies for the neerneſs or for the degree, but for the proper reaſon; and if you could ſuppoſe a woman to live to ſee ſix generations of her line, yet it is unlawful for her to marry that ſixth degree of Nephews, and not unlawful to marry the firſt degree of Coſens.

47. 2. In the deſcending line the caſe is otherwiſe then in the equal line. Here the further off the perſons are the leſs reaſon ſtill there is they ſhould be forbidden: but in the deſcending line the further the perſons are remov'd the greater cauſe there is they ſhould be forbidden: therefore there is no compariſon between the cognation of Uncles and their Neeces, and the cognation of Coſens in the equal lines: becauſe the reaſon diſtinguiſhes them, not the Kinred or neerneſs to the common Parent.

48. 3. It is true which is affirmed in the law, *In pari Cognationis gradu, par idémque jus ſtatuatur:* when the Cognation is the ſame, the law is ſo too; that is, If it be meaſured in the ſame kind of Cognation: aſcending compar'd to aſcending, equal collateral to equal collateral, unequal to unequal; for

when the compariſon is of things in the ſame order; then not onely the degree but the reaſon is moſt commonly the ſame too, and that is principally to be regarded.

49. But though I am willing enough to admit this rule with theſe cautions, yet many others will not, nor think it reaſonable that any thing ſhould be ſuppoſed to be forbidden in the Levitical law, but what is there ſet down, excepting the deſcent of children in which it is not eaſy to prevaricate beyond the degrees forbidden expreſsly, if a man had a mind to it; and it was never heard of, that a marriage was thought of between a woman and her Great Grandfather: and they give this reaſon why they limit themſelves to the degrees expreſſed. Becauſe unleſs God had intended there a perfect enumeration of all the perſons forbidden to contract marriages mutually, it cannot be imagined why he ſhould be pleas'd to repeat ſome degrees twice which are equally forbidden in the ſeveral inſtances: for if the parity of cognation were to be the meaſure, then thoſe degrees which are twice repeated might without ſuch repetition have better been reduc'd to the Rule, under which they were ſufficiently prohibited.

50. 2. But whether it be, or be not ſo, yet it can no way reach to the caſe of Coſen Germans: For there is in *Leviticus* no degree equally neer that is forbidden, except of ſuch perſons which are in the place of Parents, who are prohibited upon another account.

51. But that which ought to put it paſt all queſtion that the marriage of Coſen Germans was not prohibited by the Levitical law either expreſsly or by conſequence and parity of reaſon, is this: Becauſe it was practis'd by holy men both before and after the law, and ſo ordered to be done by God himſelf. In the law there are no words againſt it, no reaſon againſt it expreſs'd or intimated in a parity of prohibition given to ſomething elſe, and it was frequently practis'd amongſt perſons of a known religion, and was by God given in command to ſome perſons to doe it; therefore nothing is more certainly warranted, excepting onely expreſs Commandements.

52. The particulars I relate to in Scripture are theſe; *Jacob* married his Coſen German *Rachel* the daughter of his Uncle *Laban*. *Amram* the Fa-
Exod. 6. 20. ther of *Moſes* begat him of his Coſen German *Jochabed*. That ſhe was his Aunt is commonly ſuppoſed, but the L x x and the Vulgar Latin report her to be his Aunts daughter, though by the ſtile of the Hebrewes ſhe was called his Aunt: juſt as *Chanameel* is called in ſome books the
Jer. 32. 12. Uncle of the Prophet *Jeremy*, when he was really his Uncles Son; and ſo the Vulgar Latin Bibles read it; and *Loth* was called brother by *Abraham* when he was his Brothers Son. * *Caleb* having promiſed his Daughter *Achſah* to him that ſhould take *Kirjath-Sepher*, ſhe fell to *Othniel* the Son of *Kenaz Calebs* Brother; ſo *Pagnine* and *Arias Montanus* read it [*Filio Kenaz Fratris Caleb*] meaning *Kenaz* to be *Calebs* Brother: So that *Othniel* and *Achſah* were Brothers children; for it cannot be ſuppoſed that *Othniel* was *Calebs* Brother and ſo was Uncle to *Achſah*; for that being forbidden in the law of *Moſes* under which *Othniel* and *Achſah* lived was
Num. 33. not a thing ſo likely to be done, and conſented to by *Caleb*; as I have already noted.

53. But the matter was made more notorious in the caſe of *Zelophehads*
Numbers 36. daughters; who becauſe they were heireſſes were commanded to marry their kinred

kinred; and they married their Fathers Brothers ſons. This was a ſpecial caſe, but therefore it was a ſpecial command; and what was in all caſes lawful was made in this caſe neceſſary. For if the woman was an Heireſs ſhe was to pleaſure her own family rather then ſtrangers. And this was not onely amongſt the Jews but amongſt the Greeks and Latines, as appears by that of the Comedy

Lex eſt ut orbæ, qui ſunt genere proximi Ter. in Phor.
Iis nubant, & illos ducere eadem hæc lex jubet.

If the woman was without children (adde alſo) and without a Father, that is, if her Father be dead, the next of kinred was bound to marry her: and therefore when *Æſchylus* calls the marriage of certain Coſen Germans λέχεα ὧν θέμις ἔιργϛ marriages which the law forbids, and affirms μιαίνεσθαι γῆν the family is ſtaind by it: the *Scholiaſt* addes that therefore theſe marriages are unlawful becauſe the Fathers were alive; and ſo it was not unlawful upon the ſtock of kinred; but becauſe the maid was ἐπίκληρος an Heireſs and might not marry without her Fathers leave. This woman was called among the Greeks ἐπιδικαζομένη, a woman determin'd by law, and already judg'd to ſuch a marriage; παρεῦχον, and ἐπίκληρον, or ἐπικληρεῖτις, and to them that were ſo, it was not free to marry any one, they muſt marry their Kinred In Danaidib.

Hic meus amicus illi genere eſt proximus, Adelphi.
Huic leges cogunt Nubere hanc ——

And we find in the old Civil law that one *Caſſia* was declar'd *inheretrix* upon condition, *Si Conſobrino nupſiſſet*: if ſhe did marry her Coſen German. *l.* 2. *C. de inſtit. & ſubſt.* and *Papinian l.* 23. *&* 24. *D. de ritu nuptiarum* affirms, *conditionem illam, ſi conſobrinam duxeris, hæreditatis inſtitutioni utiliter adjici poſſe*; it is a legal and a fair condition and may be the limit of an inheritance that the Heireſs be bound to marry her Coſen German. And this in ſome meaſure was the caſe of *Ruth* whom *Boaz* Great Granfather to King *David* did marry by the right of a Kinſman. *Now it is true* (ſaith he) *that I am thy neer Kinſman, howbeit there is a Kinſman neerer then I*: which Kinſman becauſe he refus'd to marry *Ruth*, *Boaz* took her to wife, and ſhe became a mother in the line of the Meſſias; for Chriſt came out of her loines according to the fleſh. Ruth 3. 12.

50. Into which line becauſe this Argument hath led me, I offer it to conſideration as the laſt and greateſt example of the lawfulneſs and holineſs of ſuch marriages under the law of *Moſes*, and as a warranty to all ages of the Chriſtians; The B. Virgin *Mary* the Mother of our moſt B. Saviour was married to her Coſen German (as was ſuppoſed upon this reaſon:) For her huſband *Joſeph* was the ſon of *Heli* (ſaith S. *Luke*) that is, the legal ſon of *Heli*, for *Jacob* begat him (ſaith S. *Mathew*) Now *Heli* and *Jacob* were Brethren the ſons of *Matthan* who was Grandfather to *Joſeph* and *Mary*; for unleſs by the cognation of *Joſeph* and *Mary* the ſame genealogy had ſerv'd for them both, the reckoning of the Genealogy of *Joſeph* could not have proved Jeſus to have deſcended from *David*. But if this inſtance ſhould fail, and that their conſanguinity (for they were Coſens) did ſtand at further diſtances; yet there are examples and reaſons and authentick preſidents already reckon'd enow to warrant us in this inquiry. Luke 3. 23.

51. By all which it appears what was the ſtate of theſe marriages under the law

of

of *Moſes*, and yet all the ſcruple at which weak perſons ſtart or ſtumble, is derived from that Sanction in *Leviticus*, which in deſpite of all reaſon and all precedents and all obſervations whatſoever, they will needs ſuppoſe to be a Natural and moral law, ſo making eleven Commandements: for certain it is that the ten Commandements was to the Jews the ſum of their Moral law: in which, ſince ſome things that were ceremonial were inſerted, it is not likely that any thing that was moral ſhould be omitted. In the ten words of *Moſes* there was nothing leſs then their whole Moral law, though ſomething more there was: but this of forbidding Coſens to marry was no where put: If it had been put in *Leviticus* it was but National and temporary: for I have proved it was not againſt the law of Nature which permitted neerer relatives then Coſen Germans to marry: I have alſo proved that the Sanction of *Moſes* did onely oblige Jews and Proſelytes: That if they had oblig'd all, yet Coſen Germans are not there expreſsly forbidden, and if they be not there expreſsly forbidden they are not forbidden at all; but in caſe that other degrees of equal diſtance and reaſon were there forbidden, though not expreſſed, yet this of Coſen Germans is not by any conſequence or intimation of that forbidden, becauſe no degree is there forbidden which can involve this, but it hath a ſpecial caſe of its own in which this is not at all concerned, and all this I ſtrengthned with examples greater then all exception.

56. It remains now that we deſcend to the Chriſtian law, and enquire whether our great Maſter and Lawgiver Jeſus Chriſt hath forbidden Coſen Germans to marry? But this is ſoon at an end, for Chriſt ſpake nothing at all concerning marriage but one ſentence which reduc'd it to the firſt ſtate of Nature, ſave onely that he left us in all things bound by the laws of Nations and our juſt ſuperiors, of which two laſt I ſhall give account in the following periods. But of that which Chriſt ſaid the ſum is this onely: *For this cauſe ſhall a man leave Father and Mother and cleave to his wife, and they two ſhall be one fleſh.* By which words he did eſtabliſh all that was Natural and Moral in this affair. [A man ſhall leave Father and Mother] by theſe words are forbidden the marriage of Parents and children. [He ſhall cleave to his wife] by this is forbidden *concubitus maſculorum.* [His wife] by this is forbidden adultery or the lying with another mans wife, and extra-nuptial pollutions. [*Erunt duo*] *They two*, by that is forbidden *Polygamy*, [*In carnem unam*] *ſhall be one fleſh*, by this is forbidden beſtiality or the abuſe of *Caro aliena*, the fleſh of ſeveral *Species*; which are all the unlawful and unnatural luſts forbidden by God in the law of Nature, and that which was afterwards given to all mankind, and inſerted in the Levitical law as the conſummation and main deſign of the other prohibitions which were but like hedges and outer guards to theſe.

57. There is in the New Teſtament onely one law more which can relate to this queſtion of marriages [*Provide things honeſt in the ſight of all men*] and [*Follow after things which are of good report*] That is, Whatſoever is againſt publike honeſty, the law of Nations, the common ſenſe of Mankind, that is not to be done by Chriſtians, though of the inſtance there be no ſpecial prohibition in the laws of Jeſus Chriſt: and *Modeſtinus* the Lawyer ſaid well, *In nuptiis non ſolum quod liceat, ſed etiam quid honeſtum ſit, ſemper eſt reſpiciendum.* Concerning which leſt there be a miſtake in it, I premiſe this caution in general, that we doe not take falſe or weak eſtimates of Publike fame and honeſty. Nothing but the laws of God and Men or the univerſal ſentence of that part of mankind with whom we any waies converſe is the meaſure of publike honeſty. Thus for a Biſhop to ride on hunting in his Pontificals, or for a Prieſt to keep

an

an alehouſe is againſt publike honeſty: of the ſame nature are, for a woman to paint her face, or to goe in mans apparel. But *when a thing is diſputed on both ſides by good and learned Men, to doe either is not againſt publike honeſty.* Thats a certain rule; for when a thing is called good and honeſt by wiſe and good Men, the queſtion is divided, and therefore cannot be united againſt either of them. * Upon this account S. *Paul* reprov'd the inceſtuous Corinthian becauſe he had done a fact which was not ſo much as nam'd, that is, approv'd amongſt the Gentiles, that one ſhould have his Fathers Wife. *Caracalla* indeed did it afterwards, and it was before his time done in the family of *Seleucus*; but theſe were inſolent examples, ever diſallowed by the Romans and all the Nations within their circuit: and conſequently the Greeks had long before S. *Pauls* time been more reſtrain'd in their too great licentiouſneſs of marriages. And when the cuſtome of this thing had procur'd a licence for it amongſt the Scots, S. *Margaret*, wife to *Malcome* III. their King did reduce the contrary law of Nations, and forbad a ſon to marry his fathers wife, or a Brother to marry his Brothers widow.

58. Beyond this the New Teſtament having nothing, if we reduce this to the preſent queſtion we muſt conſider whether the marriage of Coſen Germans be againſt publike honeſty or good report, that is, whether it be condemn'd by the law of Nations and the prevailing ſentences or practiſe of wiſe men.

59. Concerning this, I find that *Plutarch* ſpeaking of the ancient laws and uſages of the Romans in marrying their Kinred, ſaies it was a practice before it was a law: and there happened to be a caſe of a good man who had a great advantage by marrying his Coſen German: upon occaſion of which the people made a law that it ſhould be permitted to any one to doe it ψηφισάμεν☉. πᾶσιν ἐξεῖναι γαμεῖν ἄχρις ἀνεψιῶν, τὰ ὑπ' ἀνωτέρω κεκωλύσθαι. Now this was very ancient; and before this law for it I find no law againſt it, onely if *Claudius* in *Tacitus* ſaid true they were *diu ignorata*, no notice of them, or but ſeldom examples. Concerning which diſcourſe though men are pleas'd to talk as ſerves their turnes, yet it is very certain that the elder the times were, the more liberty there was of marrying their Kinred. However there was an early law for it and none againſt it, that I find; and when it began to be conſidered, *tempore addito percrebuerunt* ſaid *Tacitus*, they in time grew frequent. In the Oration of *Sp. Liguſtinus* in *Livy* there is this clauſe, *Pater mihi Uxorem fratris ſui filiam dedit:* My Father gave to me wife his own Brothers daughter: and *Quintilian* mourning for the immature death of his Son, affirms that he was deſign'd to be ſon in law to his Uncle. So *Cicero pro Cluentio* ſaies that his Siſter married *Melinus* her Coſen German: and *Auguſtus Ceſar* gave his daughter *Julia* to *Marcellus* the ſon of his Siſter *Octavia*. The brave *Brutus* who was the example of a rare moral man and a noble Patriot was married to *Portia* the daughter of his wiſe Uncle *Cato*; and that incomparable Prince *Marcus Antonius* the Philoſopher and Emperor was married to his neereſt Coſen *Annia Fauſtina*; ſhe was his Coſen German. But thus it was at the beginning; and thus it was at the ending of the Roman ſtate and Empire. *At the beginning*; the two daughters of *Servius Tullius* were married to their Coſen Germans *Lucius* and *Aruns*, the Nephews of *Priſcus Tarquinius*, *Livy* indeed ſaies it was not certain whether theſe young Gentlemen were Uncles or Coſen Germans to their wives; that is, whether they were ſons or Nephews to *Tarquinius Priſcus*, but *Dionyſius Halicarnaſſeus* contends earneſtly that they were Nephews. Toward the declination of the Roman period

Annal. l. 12

L. 1. ad V. C.

L. 4. Antiq.

and

and state we find that *Constantius* the Emperor gave his Sister to her cosen *Julianus*.

60. These and all the foregoing examples of the wisest, of the best, of the most holy Persons, Patriarchs, and Kings, Consuls and Philosophers, Lawgivers and Saints; the practice and customes of the greatest and most civil Nations are infinitely sufficient to dash in pieces this weak pretence (if any should make use of it) that the marriage of Cosen Germans is against publike honesty, and so consequently not of good report; For that which God never forbad, but sometimes did actually command, which the Patriarchs did practise, which the church of the Jews never scrupled at, but alwaies were accustomed to it, which wise men and good men have done without reproof: which was admitted by the law of Nations; and is no where contradicted in Scripture, which records many authentick precedents of such marriages, in all reason ought to be of good report. And certainly nothing hath done dishonour and so lessen'd the fame and good opinion of such marriages, as the very making a question concerning its lawfulness, and making a scruple even after the question is well determin'd. To be suspected, lessens the fame of any man or any thing. The doing justice to this article will doe it reputation enough.

61. If we now shall inquire how the civil law of the Romans did determine of these marriages we shall be helped much in the cure of the former fear. For if the law of the Romans allowed it, that law which had so many brave and wise composers, and which so many Nations allowed of and practis'd, and still do in very many Kingdomes and Republikes, we have no reason to think it can be of ill report. But concerning this the matter is not very disputable, it is notorious that the Civil law did allow it. *l.* 1 § *duorum inst. de nupt. l.* 3. *& l. non solum.* §. 1. *D. de ritu nupt. l. C. de inst. & subst.* * *Paulus* the Lawyer said; *Si Nepotem ex filio & neptem ex altero filio in potestate habeam nuptias inter eos me solo authore contrahi posse Pomponius scribit, & verum est:* and *Antoninus* the Emperor said, *Non videri potest sub specie turpium nuptiarum viduitatem tibi induxisse cum te filio sororis suæ consobrino tuo, probabili consilio Matrimonio jungere voluerit:* I need in this say no more. It was alwaies permitted in the Greek and Roman Laws, till the time of *Theodosius*, who being over-ruled by S. *Ambrose*, forbad it by an expres law; *tantum pudori tribuens continentiæ ut consobrinorum nuptias vetuerit tanquam sororum*, said *Aurelius Victor*; he thought it more nice and modest if he should inlarge the Laws and restrain what was not restrain'd before: But this as it arose suddenly, so as suddenly was extinguish'd; for it was abrogated by *Arcadius* and *Honorius* his sons, whose constitution to this purpose is in *Justinian l. celebrandis C. de nuptiis*, in which these words are remarkeable, [*Revocatâ prisci juris authoritate, restinctisq; calumniarum fomentis, matrimonium inter Consobrinos habeatur*] The law that forbad them was occasioned and fomented by calumnies; which being dispersed, the authority of the Ancient law was recalled.

L. si Nepot. 3. D. de rit. nupt.

L. conditioni. 2. C. de inst. & subst.

62. This onely I am to admonish; That in the *Theodosian Code* the law of these Emperors seems to say otherwise, as is to be seen under the titles of [*si nuptiæ ex rescript. petant: & de incestis nuptiis.*] But the forgery is notorious enough. For when *Alaric* King of the Goths had commanded his Subject *Arrianus* the Lawyer to make a Breviary of the Code, he fitted those laws to the Customes of his own Countrey, and so abus'd the law of *Arcadius* and *Honorius*, as appears plainly by comparing those constitutions which pass'd under the fingers of *Arrianus*, with those which under the same *Rubricks* are in the

the Code of *Juſtinian.* For in this there is not one word ſpoken of the marriage of Coſen Germans under thoſe Titles. And as he hath done in the Breviary of the *Theodoſian Code*, ſo he hath done in the Epitome of *Caius* inſtitutions (he, or ſome ſuch fellow as bad) and made the civil law as he pleaſed expreſsly againſt the known Sanction of all the old law of the Braver Romans. * The ſame alſo was done by *Theophilus* who recited this law according to the manners of his own time, and recites the law of *Juſtinian* exactly contrary to *Juſtinian*'s ſence by clapping a perfect Negative to his direct affirmative. But *Curtius* the Latin interpreter of *Theophilus* hath ſet it right again according to the true intent of the Civil law. But it may be I doe not well to trouble the Queſtion with theſe little things, when the great lines of duty are ſo plain and legible: and concerning this we have a full teſtimony from S. *Auſtin*; who having obſerved that in his time Coſen Germans did not often marry; *Experti ſumus* (ſaies he) *in conjugiis conſobrinorum etiam noſtris temporibus .... quàm rarò per mores fiebat, quod fieri per leges licebat, quia id nec Divina prohibuit, & nondum prohibuerat lex humana.* That is, for Coſen Germans to marry was neither prohibited by the laws of God nor man: and ſo we have a teſtimony beyond exception concerning the Civil law, and the law of God, and the law of the Church till his time. Now if it be objected that he ſaies it was done but ſeldome, it is no wonder. S. *Ambroſe* and *Theodoſius* a little before that time had cauſed ſome reſtraint and made the matter uneaſy and beſides this; If any man could obſerve concerning any one ſort of perſons how ſeldom they marry, that is, how few examples any one man can obſerve of any degree though never ſo diſtant, this will appear but light, as the dew upon a flower, or the down of a thiſtle. It is lawful for a Father and his Son to marry a widow and her daughter; and for two Brothers to marry two Siſters; and no man queſtions any thing of it: but *quàm rarò hoc per mores fiat*; how many examples can any one man reckon? Can he tell ſo many in one age and of his own notice, as to make them up a multitude? and yet this would be but a weak argument againſt it; and not worth a further conſideration.

L. 15. c. 16. de civit. Dei.

63. That which is to be inquired next into is the Canon law; and that indeed does forbid it: but how, and to what purpoſe, and with what obligation will not be wholly uſeleſs to conſider.

64. 1. In the very firſt Canons of the Church (excepting onely that one fram'd in the Councel of *Jeruſalem Acts* 15.) which are commonly called the Canons of the Apoſtles there is a caution againſt inceſtuous marriages, but the inſtances are onely, [*He that marries two Siſters, or his Brothers Widow, or Daughter.*] The penalty is, *He may not be received into Holy Orders:* but for the matter of Coſen Germans it was not forbidden: Until S. *Auſtins* time and thereabouts it was true that *Nondum prohibuerat lex humana, Divina nunquam:* Gods law had never, and till then mans law had not forbidden it, that is, it was then in all ſenſes lawful: and in the Synod of *Paris* almoſt ſix hundred years after Chriſt, thoſe are defined to be unlawful marriages *quæ contra præceptum Domini contrahuntur*, which are againſt the Divine law; None elſe; amongſt which the preſent caſe is not to be ſuſpected: and in the old Canons of the Church all the prohibited inſtances were compris'd in theſe verſes, which was their Authentick Table:

Nata, Soror, Neptis, Matertera, Fratris & Uxor,
Et Patris Conjux, Mater, Privigna, Noverca,
Uxoríſque

Uxorisque Soror, Privigni Nata, Nurúsque,
Atque Soror Patris, conjungi lege vetantur.

C. lit. extr. de sctir. sponsal.

But in some assemblies of the Bishops about this time, a little before or a little after, the manners of the Nations being spoil'd with warres, rudeness and Barbarisme, they contracted incestuous marriages: and it was therefore thought fit that as the marriage of Uncles and Nieces were forbidden as a hedge to keep them farther off from Father and Mother, Son or Daughter, so this of Cosen Germans was set as a προφυλακη or an outward Court to keep them from marrying Brother and Sister. And therefore *Harmenopulus* saies they were forbidden by the laws of the Greeks. And it was amongst them no more then was highly needful for a reason which every one knows. But both there and in the Latin Church, when the prohibition of Cosens marriage is joind in the same decree with the marrying of Sisters, the cause is rendred too suspicious. * And yet there was an external cause that had influence upon these Sanctions of the Church. The Goths then prevaild by the sword, and the Church to comply with the Conquerour was forward to receive this law from them: for the Goths had it before the Romans, and it is very probable that those barbarous people were the great presidents and introducers of the prohibition.

65. 2. These laws were made by time and accidents, and were extended or contracted as it pleased the Popes of *Rome*, who (as one observes) were for a long time *iniquiores & invidi in maritos*, apt and easie to make all restraints upon marriages. If it were seasonable and fit it were not useless to observe many instances out of the Canon law to this purpose. But I forbear, that which I now observe, is, that the prohibition amongst them began with Cosen Germans then it went to the third and fourth degrees; then to seven, then to four again, sometime to six, as in the Synod at *Cabaillon*; sometimes *usque dum generatio agnoscitur, aut memoria retinetur*, as long as any memory of kinred remains, and that will be very far in *Wales*, where they reckon eight degrees and special names of Kinred after Cosen Germans, and then Kin for ever, and truly these Canonists proceed as reasonably as their Principles would admit. For if Cognation or Consanguinity was the hindrance of marriage, where ever they could reckon that, they had some pretence to forbid marriage: but if they onely forbad it upon the accounts of Nature, or by the precedent of the Divine law given to *Moses* they were to stop there where Nature stop'd, or the Divine law. But that they would not, as knowing it to be an easie thing to make laws at the charge of other mens trouble.

Concil. Tolet. 2. c. 5. Concil. Worm.

66. 3. The reasons why the Projectors of the Canon law did forbid to the fourth or to the seventh degree, were as fit a cover for this dish as could be imagined. They that were for four gave this grave reason for it. There are four humors in the body of a man to which because the four degrees of consanguinity doe answer, it is proportionable to Nature to forbid the marriage of Cosens to the fourth degree. Nay more; there are four Elements; Ergo, To which it may be added, that there are upon a mans hand four fingers and a thumb. The thumb is the *stirps* or common Parent; and to the end of the four fingers, that is, the four generations of Kinred we ought not to marry, because *the life of a man is but a span long.* There are also four quarters of the world; and indeed so there are of every thing in it, if we please, and therefore abstain at least till the fourth degree be past. Others who are graver and wiser (particularly *Bonaventure*) observe cunningly, that besides the four humours of the body, there are three faculties of the Soul, which being joined together make seven, and they point out to us that men are to abstain till the seventh generation

tion. Theſe reaſons ſuch as they are, they therefore were content withall, becauſe they had no better: yet upon the ſtrength of theſe they were bold even againſt the ſenſe of almoſt all mankind to forbid theſe degrees to marry.

67. 4. When the Canoniſts appointed what degrees of Kinred they would have reſtrain'd from mutual marriage, they took their precedent and meaſure from the Civil law, making this their ſtandard, that ſo long as by the Civil law inheritances did deſcend, ſo long by the Canon law it ſhould not be permitted to kinred to marry: and upon this account they forbad marriage to the ſeventh degree, becauſe ſo farr the laws appointed inheritances to deſcend. Now that this is a weak and a falſe ground appears, becauſe inheritances deſcend even to the tenth degree: and yet ſuppoſe it otherwiſe: yet the Popes and other compilers of the Canons overſhoot their mark extremely: becauſe while they forbidding marriages to the ſeventh degree pretended to follow ſome proportions and uſages of the Civil law, do yet reckon the degrees otherwiſe then the Civil law does, and conſequently doe forbid marriage to the fifteenth civil degree excluſively. For whereas by the Canon law ſo far as either of the perſons is diſtant from the Common Parent, ſo far he is diſtant from the other in the equal line: ſo that by this computation Coſen Germans are diſtant in the ſecond degree and no more. But by the Civil law there are accounted ſo many degrees as there are perſons beſides the Common Parent, ſo that in this computation Coſen Germans are diſtant in the fourth degree; and conſequently the ſeventh Canonical degree is the fourteenth civil degree, the unequalneſs and unreaſonableneſs of which, all Lawyers will deride. The ſame is in proportion to be ſaid of their later reduction of the Canonical prohibition to the fourth degree incluſively.

68. 5. Theſe laws gathered by the Roman Canoniſts are not now, nor ever were they, obligatory but by the conſent of the People, and the allowance of Princes. For Biſhops in their meer ſpiritual impreſſes have no proper legiſlative power, where Princes are Chriſtian: and if the Prince pleaſe he may inlarge or reſtrain their power, ſo that he make no intrenchment on the Divine law, and doe what is uſeful and profitable, *Fac legi tuæ ſepem*, ſaid the Jews: it makes the law firm if you put a hedge about it; and where viler people who had no fear of God were apt to marry Siſters or Aunts, it was not ill to prohibit ſomething that was lawful, leſt they ſhould run into what is unlawful. But this is matter of prudence onely and ought to be ſeparated from the queſtion of lawful or unlawful. But then when the Prince does not bind, the Subjects are free. *Honeſta & juſta eſſe quæ Regi placent, & regno utilia.* Thoſe things which pleaſe the King and are profitable to the Kingdome are honeſt and juſt. It was truly ſaid but ill applyed by *Antiochus Seleucus*.

69. 6. Theſe laws are neither allowed by the Prince, nor by the Eccleſiaſtical ſtate in *England*, and becauſe they were uſeleſs and burdenſome they were laid aſide; for they were but drains for money and levies of rents; for even under the Pope the way was, and is now, open enough to Coſen Germans if they have gold enough to purchaſe the lead. And ſo it was when the Civil law was tun'd to the aire of the Canon law and both to the manners of the Goths. Coſens might marry with a diſpenſation from the Prince; a form of which is to be ſeen in *Caſſiodore*. But this is one of the many bleſſings of the Proteſtant religion that we are not tied to pay money for leave to doe a lawful action; ſo that as the Jewes were wont to ſay, He that hath married a wife that is L. 7. variarum.

too neer of Kinred, let him turn Proſelyte and then ſhe is not of Kin to him, I may in ſome ſenſe uſe in the conteſt between our laws and thoſe of the Roman Churches: He that hath or deſires to marry a wife of his kindred which is not to neer by Gods law but is by the Popes law, let him become a Proteſtant, and then though nothing can be allowed to him which God hath forbidden, yet that leave which God hath given him, Man ſhall not take away.

70. 7. If it were at all conſiderable what is done by the Canon law, there is a new device brought in of ſpiritual kinred; and marriages forbidden to be between ſuch as anſwer at the Font for the ſame child; that is, if we value the Roman Canons, all Mankind are in perpetual ſnare, and that to no purpoſe.

71. 8. But as for the preſent inquiry it is conſiderable that the Canon law it ſelf does not pretend it to be againſt the Divine law, but does it wholly upon other accounts, as I have already inſtanc'd; and this appears in the epiſtle of *Rabanus* to Cardinal *Humbert*. *Quod Pontifices uſque ad ſextum vel ſeptimum gradum conjugium prohibent, magis ex conſuetudine humana quam ex lege Divina eos præcepiſſe credendum.* The Canons did not intend to ſignifie it to be againſt the law of God for Coſens to marry in the degrees forbidden by the Canon law.

72. 9. And after all, the laws of *England* doe expreſsly allow it; as is to be ſeen in the tables of marriage ſet up in Churches uſually, and in the Statute of 32 of *Henry* 8. chapter 38. And it is obſervable that in *England* they were allowed to doe it ever ſince they were Chriſtians, unleſs they were Papiſts. For till Pope *Gregories* time and *Auguſtine* the Monk (though Chriſtianity had been here almoſt 500 yeers before it was us'd by the Britains: and P. *Gregory* did not think it fit that *Auguſtin* ſhould put a reſtraint upon them (as is to be ſeen in the Britiſh Councels collected by that learned and good man Sr *Henry Spelman*) but it was no little intereſt and power, which the Popes afterwards procured in the families of Princes and other great perſonages by giving leave to them to marry their neer relatives; and their poſterity for their own ſakes would in all likelyhood preſerve that power to which (as things then went) they did owe their legitimation.

73. Although I have paſs'd thorough all laws that can oblige us, in this preſent inquiry; yet becauſe the chief diſquiſition is concerning the Natural law, and whether or no any prohibition can from thence deſcend upon the marriage of Coſen Germans is the main queſtion; it will be proper here to adde one topick more, that is, the Prudence or reaſonableneſs of the thing.

74. Concerning which it is obſervable, that whoever ſhall goe about to aſſign the proper reaſons why certain degrees are forbidden to marry by the law of God, will by experience find it to be too hard for his head: and Rabbi *Menahen Racanatenſis* obſerved, *Quod ad rationem attinet interdictorum inceſti, Magiſtri traditionum de ea nihil certi acceperunt.* The Maſters of traditions have received no certain account of thoſe reaſons for which God forbad inceſtuous mixtures: Indeed if we could find out the prime and proper reaſon; then by proportions to it we could better underſtand how far the prohibitions were to be extended. But this is to be deſpair'd of. But yet Men have ventur'd to give ſuch reaſons as they could, which how far they are applicable to the preſent queſtion ſhall be conſidered.

1. That

75. 1. That Kinred ought not to marry is therefore decreed, *nè emulatio fiat in eadem domo*, ſaies one. The ſame degree of Kinred will be apt to love the ſame man, and ſo emulation will ariſe. * Well ſuppoſe that: But if it does; the marrying one of them will determine all the reſt, and quiet the ſtrife. But becauſe this proves too much, it proves nothing at all. For upon the ſame account, a young man ſhould not marry in a family where there are many daughters, *nè æmulatio fiat in eadem domo* to avoid emulation and competition.

76. 2. Coſens would do better not to marry (ſaies another) *nè habeat duas neceſsitudines una perſona*; that one perſon may not be a double Relative: for ſo names will be confounded and the ſame perſon ſhall be Father and Coſen to his own child. * But what if he be? and what if a King be both a Lord over and a Son under his own Mother? what if a man be a Father and a Judge, a Brother in law and a Natural Brother, as when two Brothers marry two Siſters? The more relations and neceſſitudes there are, it is ſo much the better, and a twofold Cord is not eaſily broken. Cicero de Sa.

77. 3. It were well that Coſens might not marry, that by their Kinred they might be defended from the injury of their Husbands, in caſe they ſhould need it. * Well ſuppoſe this too: yet, 1. This does not at all concern the Man, for he will not need a defence by his Kinred againſt his wife. 1. 2. For the woman, unleſs ſhe marries all her kinred, the other may be a defence againſt the violence of one whom ſhe does marry; and will be more likely to prevail in the defence againſt a Kinſman, then againſt a ſtranger. 2. 3. But if a woman be brought to that paſs, her Coſen ſhall doe her little advantage againſt her Husband; for ſuch defences doe but exaſperate and make eternal animoſities: but the laws are the beſt defences. 3. 4. If the Coſen will be a ſure defence againſt the Husbands injury: then if the Coſen be married to her, he will be ſure to do her no injury. For he that will doe evil himſelf, is but an ill ſecurity to be ingag'd againſt another, and he that will prevaricate in the duty of a Husband, will hardly ſecure the peace of the woman by the duty of a Kinſman. 4.

78. 4. S. *Auſtins* ſcruple is this. *Ineſt neſcio quomodo humanæ verecundiæ quiddam naturale ac laudabile ut cui debet cauſa propinquitatis verecundum honorem ab ea contineat quamvis generatricem tamen libidinem.* There is in the Modeſty of Mankind ſomething that is Natural and laudable; by which they abſtain from congreſſion with them to whom they own the honor of Reverence and modeſt baſhfulneſs. This indeed is a good account where the modeſty of Nature does really make reſtraints and owes duty and reverence: and therefore is one of the moſt proper and Natural reaſons againſt the marriage of Parents and children, and is by the allowance of ſome proportions extended to Brother and Siſter: but if it be ſent out one ſtep further, you can never ſtop it more, but it ſhall go as far as any man pleaſe to fancy: therefore let it ſtop where God and Nature hath fix'd its firſt bounds; and let not the pretence of a Natural reaſon or inſtinct, carry us whether Nature never did intend; for it is certain ſhe gave larger commiſſions, however the fears, or the ſcruples, or the intereſt of ſome men have made them to ſpeak otherwiſe: and I remember concerning *Cicero* who ſomtimes ſpeaks againſt the marriage of Coſens, that it is but too reaſonable to ſuppoſe he did it to remove ſuſpicion from himſelf; it having been objected againſt him by *Q. Fuſius Calenus* in *Dio* that he was too kind and amorous to his own daughter. *Filia matris pellex tibi jucundior atq; obſequentior quàm parenti par eſt*; So unequal, ſo uncertain a way it is to truſt the ſayings of a man, when ſo frequently the mans opinion is not cauſed by his reaſon, but by a ſecret intereſt. Lib. 46.

79. 5. Pope *Gregory* in his Epiſtle to the Arch-biſhop of *Canterbury* tries another way: *Experimento didicimus ex tali conjugio ſobolem non poſſe ſuccreſcere.* If Coſen Germans marry they will have no children. But the good man did not remember that the whole Nation of the Jews came from the marriage of the two Coſen Germans of *Jacob*, *Rachel* and *Leah*; and although by this diſcourſe it ſeems it was an uſuall practice to doe it; for from the practice onely he could pretend to an obſervation of this event; yet as to the event of the thing it ſelf; it is a very great experience which the world hath, by which his obſervation is confuted.

80. 6. But the beſt reaſon given againſt the convenience of it; for none pretends higher; is, that it were better if Coſen Germans ſhould not intermarry *propter multiplicandas affinitates*, as S. *Auſtin* expreſſes it, *ut conjugiis augeant neceſſitudines*, that ſo they might ſcatter friendſhips and relations in more families for the diſſemination and extenſion of charity. For Coſens being already united and loving, it were well by marriage to endear others which are not ſo loving, not ſo united. Of this every one makes uſe that is pleas'd to diſſwade
1. theſe marriages. But to this I anſwer, 1. That ſuppoſe this were well and without objection as to the material part, yet this does no waies prove it unlawful, and indeed is not by the contrivers of it intended it ſhould: as appears in
2. *Philo* and *Plutarch* from whom S. *Chryſoſtom* and S. *Auſtin* did borrow it. 2. There may be one inconvenience in it, and yet many conveniences and advantages which may outweigh that one; and that there are ſo, will appear in the
3. ſequel. 3. This very reaſon when *Philo* the Jew had urg'd in general for the ſcattering friendſhips and not limiting alliances to one family, he addes, *Quod reſpiciens Moyſes alias etiam multas propinquorum nuptias vetuit:* Meaning that this argument is ſufficiently provided for by the reſtraints that *Moſes* made, and if we marry out of thoſe limits, the friendſhip is enough ſcattered. For beyond Brother and Siſter, Uncles and Nieces, the relation is far enough off to be receptive of and to need the renovation or the arreſts of friendſhip.

81. 7. It were well if Coſen Germans did not marry leſt by reaſon of their uſual familiarity, converſe and natural kindneſs, fornications ſhould be ſecretly procured; it being too ready for Natural love to degenerate into luſt. I anſwer that therefore let them marry as the remedy. For it were a hard thing that Coſens who doe converſe and are apt to love ſhould by Men be forbidden to marry, when by God they are not. For this aptneſs to love being left upon them, together with their frequent converſation is a ſnare; which becauſe God knew he permitted them to their remedy; and if men doe not they will find that their prohibition of marriage will not be a ſufficient ſecurity againſt fornication. For Brothers and Siſters where the danger is ſtill greater, God hath put a bar of a poſitive law, and Nature hath put the bar of a Natural reaſon and congruity and the laws of all Mankind have put a bar of publike honeſty and penalties, and all theſe are ſufficient to ſecure them againſt the temptation: and this was obſerved by a wiſe man long ſince in this very inſtance:

Xenophon. l. 5. de Cyri inſtit. ὡυτίκα δ' ἐχ ἐρᾷ ἀδελφὸς ἀδελφῆς, ἀλλ' ὃ αὐτός· ἐδὲ πατὴρ θυγατρὸς, ἀλλ' ὃ αὐτός. The Father is not in love with the Daughter; nor a Brother with his Siſter: the reaſon is, ἡ γὰρ φόβος ἡ νόμος ἱκανὸς ἔρωτα κωλύειν, fear and the laws are reſtraint enough for this love: but becauſe to Coſens this bar is not ſet, the greater propenſity they have to love, the more need there is they ſhould be permitted to marry. * And this very thing was obſerved by *Rabanus* in his Epiſtle to *Humbert*. *Hujuſmodi prohibitiones adulterii occaſionem præbere*; ſuch laws of Reſtraint are occaſions of Adultery

and

and therefore he infers from thence, *Bonum eſſe ut prætermiſſis illis prohibitionibus legis Divinæ ſervetur conſtitutio.* It were good if ſtanding in the meaſures of the Divine law, we ſhould lay a ſnare for no mans foot by putting fetters upon his liberty, without juſt cauſe, but not without great danger.

82. I know of no more reaſons pretended againſt this affair; I think theſe are all; and I am ſure they are the moſt conſiderable. But then on the other ſide, although it were hard to require any more reaſon for the marriage of Coſen Germans, then we doe for any other marriage, that is, that we love the perſon, that ſhe be vertuous and fitted for our condition, yet I ſay *ex abundanti*, that there are conveniences and advantages which are not contemptible, nor yet are ſo readily to be found in the marriage of other perſons.

83. 1. There is the advantage of a great and moſt perfect parity of condition that is regularly to be expected. There is no upbraiding of Kinred, greatneſs or weakneſs of fortune occaſion'd by the difference of elder or younger Brother; (for this being in all families is not a reproach to any) and here is the greateſt probability of a ſimilitude of paſſions, humors and affections, and they that have experience in œconomical affairs know that theſe things are not contemptible.

84. 2. It is obſervable that when God intended to bleſs a family and a Nation, there he permitted, and in ſome caſes commanded the marriage of Coſen Germans, as in the families of Iſrael. And although it was lawful for one tribe to marry into another, as appears in *David* who married *Michol Saul*'s daughter of the tribe of *Benjamin*; and the Benjamitiſh families were reſtored by the intermarriages of the other tribes after that ſad war about the Levits concubine; and *Hillel* the Phariſee was of the tribe of *Benjamin* by his Father, and of *Judah* by his Mother, yet this was done ſo ſeldome, that it was almoſt thought not lawful; but the moſt general practice was to marry in their own neerer Kinred, in their own tribe.

85. 3. In the caſe of the ἐπίκληροι or Heireſſes it was commanded both in the Hebrew and in the Attick laws that Coſen Germans ſhould marry, leſt the inheritance ſhould goe from the family; of which I have already given an account; but now I onely obſerve the reaſonableneſs and advantage. S. *Auſtin*'s [*largiùs ſparge amicitias*] is nothing; for when any conſiderable advantage is to be done, certainly our own are to to be preferred before ſtrangers. And the ſame alſo is true in proportion, when any one of the family is paſſionately and to pious purpoſes in love with his Coſen.

86. 4. In the caſe of an Aunts Daughter to be married to her Coſen by her Mothers Brother, there is this advantage to be gotten to the female ſide; ſhe preſerves her Fathers name in her own iſſue, which ſhe had loſt in her own perſon and marriage.

87. 5. In the accidents of houſhold converſation, and in the ſatieties of a Huſbands love, the ſtock of Kinred comes in by way of auxiliary forces to eſtabliſh a declining or tempted love: and they underſtood this well, who made it an objection againſt the marriage of Kinred, leſt the love being upon two accounts ſhould be too violent, as *Ariſtotle* in the ſecond book of his Politicks, ſeems to intimate. But I ſuppoſe that they who are concerned in ſuch marriages, will not fear the objection; but they have reaſon to value the advantage.

Ovid. 10 Met. ——*dum pietas geminato creſcit amore*
while the marital love is ſupported with the cognation.

88. 6. S. *Auguſtins* argument is to me highly conſiderable. « *Fuit anti-*
Lib. 15. c. 16. de civit. Dei. *quis patribus religioſæ curæ, ne ipſa propinquitas ſe paulatim propaginum ordinibus dirimens longius abiret, & propinquitas eſſe deſiſteret, eam nondum longe poſitum rurſus matrimonii vinculo colligare, & quodammodo revocare fugientem.* The dearneſs of Kinred will quickly wear out, and Coſens will too ſoon grow ſtrangers, therefore the Patriarchs had a religious care to recall the propinquity which was dividing and ſeparating too faſt; and as it were, to bind it by the ties of marriage, and recall it when it was flying away. And indeed there is no greater ſtability to a family, no greater band to conjugal affections then the marriage of Coſens.

89. I ſhould now ſpeak no more to this queſtion, but that I have often met with a trifling objection concerning which I could never find any reaſonable pretence, or ground of probability to warrant it. Second Coſens may not marry, but are expreſsly forbidden, therefore much rather firſt Coſens though they be not nam'd. To this I anſwer that I never knew the marriage of ſecond Coſens forbidden, but by them who at the ſame time forbad the marriage of the firſt: and indeed I have ſearched and cannot fixe my eye upon any thing that I can imagine to be the ground of the fancy: therefore I can ſay no more to it; but that the law of God does not forbid either, nor the laws of our Church or State, nor the laws of Nature or Nations, or right reaſon, but theſe marriages have advantages in all theſe. And we find that *Iſaac* married his ſecond Coſen, and that was more for it then ever could be ſaid againſt it. *Abraham* was careful and *Rebeccah* was careful that their children reſpectively ſhould marry within their own Kinred: for it ſo was deſign'd becauſe thoſe families were to be greatly and ſpecially bleſſed; and they called one another into the participation of it. I conclude this queſtion with as much warranty to the marriage of Coſen Germans as can derive from the Premiſes; they may without ſcruple own it, and ſay

Viderit amplexûs aliquis laudabimur ambo.

I know no other pretences of any inſtance obliging Chriſtians, derived onely from the Judicial law. Theſe two doe not oblige; and therefore the Rule is true in its direct affirmation.

Rule 4.

The ten Commandements of Moſes, commonly called the Moral law, is not a perfect digeſt of the law of Nature.

1. THE Jews in their Cabala ſay that the law of God was made before the creation of the World two thouſand yeers and written in black burnt letters on the back ſide of a bright ſhining fire; according to that of *David*, *Thy word is a lanthern unto my feet, and a light unto my paths.* Their meaning is, (for under Phantaſtick expreſſions they ſometimes intended to repreſent a material

terial truth) that the Decalogue or their Systeme of Moral precepts was nothing but an *expres* or the Tables of the law of Nature; long before *Moses* time given and practis'd by their Fathers. But this was not a perfect Systeme; it was the best that ever was since *Adam* brake the Tables of the Natural law and let sin and weak principles into the world; and it was sufficient in the present constitution of the world; but even this also was but like a Pædagogue to bring us to Christ. In the Scholes of *Moses* they practised the first rudiments of perfection; but Christ was the last and therefore the most perfect Lawgiver; and they that did commence under *Moses* the servant of God, were to proceed under Jesus Christ the son of God: and therefore the Apostle calls Christ τέλος τοῦ νόμου: and if we will acknowledge Christ to be our lawgiver, and the Gospel to be his law, called in the New Testament, *The law of liberty, a Royal law*; then we must expect that our duty shall be further extended then to a conformity in our lives to the ten words of *Moses*. Rom. 7. 4.

2. I doe not here intend a dispute whether Christ hath given us laws of which neither before *Moses* nor since there are no footsteps *in the Old Testament*; for I think there are none such, but in the letter or in the analogy they were taught and recommended before: but this I say; that some excellencies and perfections of morality were by Christ superadded in the very instances of the Decalogue; these also were bound upon us with greater severity, are indeared to us by special promises, and we by proper aides are inabled to their performance; and the old commandements are explicated by new commentaries, and are made to be laws in new instances to which by *Moses* they were not obliged; and some of those excellent sayings which are respersed in the old Testament, and which are the dawnings of the Evangelical light, are now part of that body of light which derives from the Son of righteousness: insomuch that a commandement which was given of old, was given again in new manner, and to new purposes, and in more eminent degrees; and therefore is also called a new commandement. Thus the conversation Evangelical is called an old Commandement and a new one. So that in the whole this will amount to the same thing as if they were new Commandements. I will not therefore trouble this article with those artificial Nothings; or endeavour to force any man to say Christ hath given us new Commandements; but this I suppose to be very evident; That we are by Jesus Christ oblig'd to doe many things to which the law of *Moses* did not oblige the sons of Israel: but whether this was by a new Imposition, or a new explication of the old, it matters not, save that some men will be humor'd in their own manner of speaking. 1 Joh. 2. 7, 8.

3. I give an instance; The Christians are obliged to love their Brethren, and their Neighbours: The Jews were so too: but Christ commanded us to love those whom the Jews did not call Brethren or Neighbours; even all that have the same Nature, even all that are in calamity. For to the question ask'd by the Pharisees, and who is our Neighbour? Christ answer'd by the Parable of him that fell among the Thieves: He that is in need is our neighbour. The Jews understood this to mean nothing but one of the same Nation or Religion, the rest they hated. Here then is a new duty; to which the Jews in the same latitude and in the same expressions were not bound by the Decalogue; and this is as much as a new Commandement: for it is new to me if it imposes a new duty. So if God forbids incest: and by it onely means the conjunction of Parents and children, if afterwards he commands us to abstain from Brother and Sister, Uncles and Aunts; this is a new law under the old words. The Jews Levit. 19. 18.

Jews might hate their enemies; but Christians have none, that is, they have none whom they are to repúte such by a legal account. The seven Nations in Palestine were legally and properly to be accounted Enemies; but to Christians all are to be esteemed as Brethren in some account or other; ἐδεὶς ἐχθρὸς τῷ σπουδαίῳ, To a good man no man is enemy: So that by alteration of the subject matter, the old law is become new, that is, we have a new law. *Lex vetus amorem docet in proximos, nova in extraneos.* The old law teaches love to Neighbours, the new to strangers, that is, to such whom the Jews called so; but yet the Christians are to treat as Neighbours. For that is a duty to us which was not so to them; and we may perish for omitting that, to which they were not obliged so much as under the pain of a legal impurity.

Hierocles.

Tertull.

4. But not onely in the object of our duty; but in the expression and signification of action Christ is a New lawgiver. They and we are bound to love our Brethren; but the precept of love did not bind them to what we are bound: We must die for our Brethren; and of this we have an express commandement, which it is certain they had not; and no sign of it in their Moral law. And it is not the same words, but the same intension of duty that makes the same law. The Jews were bound to love their wives; but an easiness of divorce did consist with that duty exacted by that law, but it will not doe so in ours. Now as in moral actions a degree alters the kind; so it is in laws; for every new degree of duty that is requir'd supposes a new authority or a new Sanction to inferre it; for the same law does not in one age *directly* permit an action, and in another forbid it; it does not reward that person which in another it will condemne.

1 John. 3. 16. Joh. 15. 12, 13.

5. But I adde other instances. If Repentance be a precept, and not onely a privilege; it is certain that in the Gospel there is a precept which was not permitted, much less injoin'd; for this obedience supposes Christ to be our Redeemer in Nature before he is our lawgiver, and therefore that it could be no part of their Moral law. But Repentance is not properly and primarily a law of Nature; for though it was the first action of religion that we find was done in the world, yet it is such a one as supposes Nature lapsed; and therefore at the most can be but adopted into the law of Nature: but yet because it is as much a part of the law of Nature, as Restitution is a part of Natural Justice, this instance is not altogether an improper illustration of this Rule.

6. But there are also many things for which provisions are made in the law of Nature; for which there is no caution in the Decalogue. I instance in the matter of incest; and if any man will reduce it to the fifth Commandement, it is certain he must then suppose, onely the mixture of parents and children to be, and that of Brother and Sister not to be incestuous; for these cannot come under the Title of Father and Mother; and if it be refer'd to the seventh Commandement it will be as improper as to suppose jeering to be forbidden in the sixth. I could adde that there being but two affirmative precepts in the Decalogue, there is no caution against sins of omission in any other instances.

7. I will not instance in those precepts which relate to our B. Lord himself, and are superinduc'd by Christianity upon the law of Nature; such as are [*faith in Jesus Christ, hope of eternal life, fraternal correption, avoiding scandal, custody of the tongue in many instances, the Sacraments, to stand fast in Christian liberty, searching the Scriptures, humility, mortification, bearing the infirmi-*

infirmities of the weak] and many more; all which proclaime Chriſt to be our lawgiver; but doe not properly denote the imperfection of the Decalogue as it is a Syſteme of the laws of Nature.

8. But I adde from the very ſtock of Nature many others. For though by the Decalogue we are forbidden to doe evil, yet we are not commanded to doe good: and that is a material conſideration; and cannot by way of reduction be brought hither: becauſe they are wholly different things, and are the effects of ſeveral reaſons, and to be incouraged by diſtinct promiſes or immunities reſpectively, and are not conſequent to each other. For the ſons of Iſrael and all the world are bound to doe evil to no man, but are not bound to doe good to every man: The firſt is poſſible, the ſecond is not: and the Jewes never underſtood that they were bound to give almes by the ſixth Commandement: and in Nature the obligation to doe good is upon a poſitive account; as the obligation it ſelf is. Of the ſame Nature is Gratitude, readineſs to help a man in need, to keep a ſecret intruſted to us, to performe promiſes: all which are of greater concernment to mankind then to be intruſted onely to analogies, uncertain inferences and ſecret corollaries, and yet for theſe there is no proviſion made in the ten commandements.

9. Neither can this meaſure of the Decalogue be reprov'd by ſaying that all theſe laws of Nature, and all the laws of Chriſt may be reduc'd to the Decalogue. I know it is ſaid ſo very commonly, and the Caſuiſts doe commonly uſe that Method, that the explication of the Decalogue be the Summe of all their Moral Theology; but how inſufficiently, the foregoing inſtances doe ſufficiently demonſtrate: and therefore how inartificially will alſo appear in the violence and convulſions that muſt needs be uſed to draw all theſe diſſonancies into one center. I remember that *Tertullian* (I ſuppoſe to try his wit) finds all the Decalogue in the Commandement which God gave to *Adam* to abſtain from the forbidden fruit. *In hac enim lege Adæ data omnia præcepta condita recognoſcimus, quæ poſtea pullulaverunt data per Moſen.* And juſt ſo may all the laws of Nature and of Chriſt be found in the Decalogue, as the Decalogue can be found in the precept given to *Adam*: but then alſo they might be found in the firſt Commandement of the Decalogue, and then what need had there been of ten? It is therefore more then probable that this was intended as a digeſt of all thoſe moral laws in which God would expect and exact their obedience; leaving the perfection and conſummation of all unto the time of the Goſpel: God intending by ſeveral portions of the Eternal or Natural law to bring the world to that perfection from whence Mankind by ſin did fall; and by Chriſt to inlarge this Natural law to a ſimilitude and conformity to God himſelf as far as our infirmities can bear. It was very well ſaid of *Tertullian*, *Intelligimus Dei legem etiam ante Moyſen; nec in Oreb tantum, aut in Sina & in Eremo primum, ſed antiquiorem, primum in Paradyſo, poſt Patriarchis, atque ita ex Judæis certis temporibus reformatam: ut non jam ad Moyſi legem ita attendamus, quaſi ad principalem legem, ſed ad ſubſequentem quam certo tempore Deus & gentibus exhibuit, & repromiſſa per Prophetas in melius reformavit.* The law of God was before *Moſes*, neither given in *Horeb* nor in *Sinai*, in the wilderneſs [nor in the land] but firſt given in Paradiſe; afterwards to the Patriarchs, and then being reformed it was given to the Jews: ſo that we are not to look after *Moſes* law as the principal, but to the law that comes after the law of *Moſes*, which being promiſed by the Prophets God in the fulneſs of time gave unto the Gentiles in the times of reformation.

Lib. adv. Jud.

Ibid.

10. The

10. The effects of this Rule in order to Conſcience are theſe:

1. 1. That we acknowledge Chriſt to be our Lord and Maſter, our lawgiver and our Teacher.

2. 2. That we underſtand the ten Commandements according to his Commentary.

3. 3. That the Cuſtomes, explications, gloſſes, and uſages of the Jews may not be the limit of our practice.

4. 4. That we expect not juſtification by our conformity to the Decalogue.

5. 5. That we endeavour to goe on to perfection; not according to the pattern which *Moſes*, but which Chriſt ſhewed in the Mount.

6. 6. That we doe not reckon any Syſteme of the Natural law, but the books of the New Teſtament.

7. 7. That we doe not eſteem it ſufficient for us to live according to Nature (as the expreſſion is commonly uſed) but that we live according to Grace, that is, the meaſures of reformed Nature. For in this ſenſe theſe words of *Juſtin Martyr* are true and uſeful, τὸ κατὰ φύσιν ζῆν ἐπαίνου τινὸς ἄξιον ἐστιν, *To live according to Nature is the ornament or praiſe of one that is yet an Unbeliever*: meaning that the Diſciples of Jeſus muſt doe more. For according as the world growes in age, ſo alſo it is inſtructed in wiſe notices; and it muſt paſs on to glory by all the meaſures and progreſſions of grace; and all that law by which we live in all the periods of the world is nothing elſe but the ſeveral degrees and promotions of the law of Nature. For children are governed by one meaſure and young men by another, and old men ſtill by a more perfect; and yet the whole is nothing elſe but right reaſon drawn into laws, and that which fits our Nature bound upon us by the decree of God: ſome laws fit our Natures as they are common to us and beaſts: ſome fit us as we are next to Angels; and ſome fit us as we are deſign'd to immortality, and the fruition of God: and the laws of Nature do grow as our Natures doe. And as we ſee is in matters of ſpeculation, thoſe principles enter into us, or are drawn from their hidden places, in our age of which we had no ſign in our youth; and when we are children we admire at thoſe things and call thoſe diſcourſes deep and excellent which when we are grown up we are aſham'd of as being ignorant and pitiful. So it is in our manners, and ſo it is in our practical notices; they all grow till they arrive at their ſtate and period: but becauſe the Eternal laws of God, that is, thoſe laws which are not fitted to times and perſons and relations, but to the Nature of man, that is, to all Mankind, intend to bring us to God and to all that perfection of which we are capable; therefore it is that they alſo muſt increaſe according to the growth of Nature: when therefore the Nature of man was rude and in its infancy, God drew out of the Eternal fountain but a few of theſe Natural laws: but he ſtill ſuperadded more as the world did need them, and at the laſt by his Son, who by his incarnation hath adorn'd our Nature with a robe of glory, hath drawn out all thoſe by which we are to converſe with God and men in the beſt and greateſt Entercourſes: that he might enable our Nature to diſpoſitions proper and immediate to a ſtate of glory. Not but that they all were potentially in the bowels of the great Commandements; but that God did not by any Prophets or Lawgivers draw them all forth, till the great day of reformation, at the Revelation of the Son of God. But in this the ſentence of *Irenæus* is wiſe and full. *Conſummata vitæ præcepta in utroque Teſtamento cùm ſint eadem, eundem oſtenderunt Deum qui particularia quidem præcepta apta utriſque præceptis, ſed eminentiora & ſumma, ſine quibus ſalvari non poteſt, in utroque eadem ſuaſit.* The precepts of perfect life are the ſame in both Teſtaments, and doe demon-

Lib. 4. c. 26. in princip.

demonſtrate the ſame God of both; who indeed hath given ſeverally ſeveral inſtances of Commandements; but the more eminent and the chief, without which ſalvation is not to be had, are the ſame in Both. Meaning, that there are the ſame general lines of Religion, and of Juſtice in the old and in the new; but the ſpecial and particular precepts are ſeverally inſtanc'd by Chriſt and *Moſes*.

RULE 5.

All the explications of the Moral law which are found in the Prophets and other holy writers of the Old Teſtament, are to be accounted as parts of the Moral law, and equally obliging the Conſcience.

1. HE that will explicate the Moſaick law according to the perfections of the Goſpel, does expound the words of a child by the Senſes and deepeſt policies of a witty man. I have ſeen ſome parts of *Virgil* chang'd into impure Feſcennines; and I have alſo ſeen them chang'd into the ſenſe and ſtile of the Goſpel; but *Virgil* intended neither, though his words were capable of both; and yet the way to underſtand *Virgil* is by the Commentaries of men of his own time, or Nation, or learned in the language and cuſtomes of the Romans. So it is in the Decalogue of *Moſes*. If Chriſtians underſtand it by all the ſeverities and inlarged notices of the Goſpel, they accuſe their own Commentary as too large, or the practice of the Jews who never obeyed them at that rate; and therefore all thoſe wilde reductions of all good and bad to that meaſure is of no good uſe, but it is full of error, and may have ſome ill effects; of which I have already given caution: but then becauſe they may be explicated and can admit a commentary, as all laws doe beyond their letter; there is nothing more reaſonable, then that the commentaries or additional explications of their own Prophets and Holy men, and the uſages of their Nation be taken into the ſacredneſs of the text and the limits of the Commandement.

2. Thus when God had ſaid, *Thou ſhalt doe no murder*; when *Moſes* in another place addes theſe words, *Thou ſhalt not hate thy Brother in thy heart; nor be mindful of an injury*: this is to be ſuppoſed to be intended by God in the Commandement; and to be a juſt commentary to the text, and therefore part of the Moral law. When they were commanded to worſhip the God of Iſrael and no other: this was to be underſtood according to *Davids* commentary; and when he had compoſed forms of prayer to God, to pray to him was to be ſuppos'd to be a duty of the Commandement. God commanded that they ſhould *honour Father and Mother*, which appellative when *Moſes* and the Holy Writers of the Old Teſtament had given to Princes and Magiſtrates, and had in another place expreſsly commanded obedience to them, it is to be ſuppoſed that this is an explication of the fifth Commandement. Lev. 19. 17, 18.

3. This alſo is to be extended further, and by the ſayings of the Prophets they could underſtand what things were permitted by *Moſes*, which yet God loved

loved not: and that the Commandement had a further purpose then their usages would endure: and though (as our Blessed Lord afterward expres'd) *Moses* permitted divorces for the hardness of their heart; yet that from the beginning it was not so, and that greater piety was intended in the Commandement they were sufficiently taught by the Gloss which God himself inserted and published by the Prophet *Hosea*, *I hate putting away.* In this and all other cases the Natural reasonableness of things, Natural justice, and Essential piety, and the first institution of them were the best indications of these effects which such sayings of the Prophets and other Holy Men ought to have in the enlargement of the Moral law, or restraint of privileges and liberties.

4. The use of this Rule in order to the Government of Conscience is to describe of what usefulness in our religion, and what influence in our lives is the Old Testament; all the Moral precepts which are particulars of the Natural law or universal Reason are either explications of the Decalogue or precepts Evangelical, by which the old Prophets did *prepare the way of our Lord, and make his paths strait.* It is the same religion theirs and ours as to the Moral part: intending glory to the same God by the same principles of prime reason, differing onely in the clarity and obscurity of the promises or Motives of Obedience, and in the particular instances of the general laws, and in the degrees of duties spiritual: but in both, God intended to bring Mankind to Eternal glories by religion or the Spiritual worshippings of one God, by justice and sobriety, that is, by such waies as Naturally we need for our Natural and perfective being even in this World. Now in these things the Prophets are preachers of righteousness, and we may refresh our souls at those rivulets springing from the wells of life, but we must fill and bath our selves *in fontibus salvatoris* in the fountains of our Blessed Saviour: for he hath anointed our heads, prepar'd a table for us, and made our cup to overflow and *of his fulness we have all received, Grace for Grace.*

5. But this is at no hand to be extended to those prohibitions or reprehensions of their prevarications of any of the signal precepts or religion, by which as themselves were distinguish'd from other Nations, so God would be glorified in them. For sometimes the Prophets represented the anger of God in a ceremonial instance: when either they sin'd with a high hand in that instance, that is, with despite and contempt of the Divine Commandement, or when the Ceremony had a mixture of morality, or when it was one of the distinctions of the Nation, and a consignation of them to be the people of God. But this will be reduc'd to practice by the next Rule.

Rule 6.

Every thing in the Decalogue is not obligatory to Christians, is not a portion of the Moral or Natural law.

1. When *Moses* deliver'd the ten Commandements to the people, he did not tell them in order which was second, which was fifth: and upon this account they have been severally divided as men did please to fancy. I shall

ſhall not clog theſe annotations with enumerating the ſeveral wates of dividing them; but that which relates to the preſent inquiry is whether or no the prohibition of graven images be a portion of the firſt Commandement; ſo as that nothing is intended but that it be a part or explication of that: and that it contain in it onely the duty of confeſſing one God, and entertaining no other Deity viz. ſo that images become not an idol, or the final object of our worſhip as a God; and therefore that images are onely forbidden as *Dii alieni*, not as the repreſentations of this one God, and they are capable of any worſhip but that which is proper to God: or elſe it is a diſtinct Commandement; and forbids the having, or making, and worſhipping any images with any kind of religious worſhip. Theſe are the ſeveral effects which are deſign'd by the differing diviſions of the firſt Table; I will not now examine whether they certainly follow from their premiſes and preſuppoſitions; but conſider what is right, and what follows from thence in order to the integrating *The Rule of Conſcience.* That thoſe two firſt Commandements are but one was the doctrine of *Philo* the Jew (at leſt it is ſaid ſo) who making the Preface to be a diſtinct Commandement; reckons this to be the ſecond; *Deos ſculptiles non facies tibi, nec facies omne abhominamentum Solis & Lunæ, nec omnium quæ ſunt ſupra terram, nec eorum quæ repunt in aquis, Ego ſum Deus Dominus tuus Zelotes, &c.* And the ſame was followed by *Athanaſius*, *This book hath theſe ten Commandements in Tables*; *The firſt is* ἐγώ εἰμι Κύριος ὁ Θεός σα· *The ſecond, thou ſhalt not make an idol to thy ſelf, nor the likeneſs of any thing*: and this diviſion was uſual in S. *Cyrils* time who brings in *Julian* thus accounting them. *I am the Lord thy God which brought thee out of the land of Egypt: The ſecond after this: Non erunt tibi Dii alieni præter me, non facies tibi ſimulacrum, &c.* and the ſame way is followed by S. *Jerome* and *Heſychius*: Theſe make the introduction to be one of the Commandements; and thoſe which we call the firſt and the ſecond to be the ſecond onely.

Synopſ. Scriptor. tom. 2.

L. 5. contr. Jul.

In c. 10. Hoſ. In 26. Levit.

2. Of the ſame opinion as to the uniting of theſe two is *Clemens Alexandrinus*; and S. *Auſtin*, *Et revera quod dictum eſt, Non erunt tibi Dii alieni, hoc ipſum perfectiùs explicatur, cùm prohibentur colenda figmenta.* The prohibition of images is a more perfect explication of thoſe words, *Thou ſhalt have no other Gods but me.* To the ſame ſenſe *Ven. Bede*[a], S. *Bernard*[b], the [Ordinary Gloſs, *Lyra*, *Hugo Cardinalis*] *Lombard*, the Church of *Rome*, and almoſt all the Lutheran Churches do divide the Decalogue.

L. 6. ſtrom.

Qu. 71. in Ex.

[a] In 20. Exod.
[b] Sup. ſalv. Reg.

3. On the other ſide theſe are made to be two diſtinct Commandements by the Chaldee Paraphraſt (*in c. 20. Exod.*) and by *Joſephus*; *Primum præceptum Deum eſſe unum, & hunc ſolum colendum. Secundum, nullius animalis ſimulachrum adorandum.* And theſe are followed by *Origen*, *Gregory Nazianzen* [S. *Ambroſe*, and S. *Hierom**] even againſt his opinion expreſs'd in another place, S. *Chryſoſtom*, S. *Auſtin*, or whoſoever is the Author of the Queſtions of the old and New Teſtaments, *Sulpitius Severus*, *Zonaras*; and admitted as probable by *Ven. Bede*: but followed earneſtly by all the Churches that follow *Calvin*; and by the other Proteſtants not Lutherans.

L. 3. Antiq. c. 4.

L. 3. hom. 8. in Exod.
In Carm.
* In 6. Epheſ.

4. In this great contrariety of opinion that which I chooſe to follow is the way of the Church of *England*, which as it hath the greater and more certain authority from Antiquity, ſo it hath much the greater reaſonableneſs. For when God had commanded the worſhip of himſelf alone excluding all falſe Gods: In the next words he was pleas'd alſo to forbid them to worſhip him in that manner by which all the Gods of the Nations were worſhipped, which

was, by images: inſomuch that their images were called Gods, not that they thought them ſo; but that the worſhipping of falſe Gods, and worſhipping by images were by the idolaters ever join'd. Now this being a different thing from the other: one regarding the object, the other the manner of worſhip;

2. it is highly reaſonable to beleeve that they make two Commandements. 2. God would not be worſhipped by an image, becauſe none could be made of him; and therefore it is remarkable that God did duplicate his caution againſt images of him, by adding this reaſon to his precept, *Remember that ye ſaw no ſhape, but onely heard a voice*: which as it was a direct deſign of God that they might not make an image of him, and ſo worſhip him as the idolaters did their falſe Gods, ſo it did indirectly at leaſt intimate to them, that *God would be worſhipped in ſpirit and truth*, that is, not with a lying image: as every image of him muſt needs be: for it can have no truth when a finite body repreſents an infinite Spirit. And this is moſt likely to be thus: becauſe this being a *certain digeſt* of the law of Nature, in it the Natural Religion and worſhip of God was to be commanded, and therefore that it ſhould be ſpiritual and true, that is, not with falſe imaginations and corporal repreſentment, was to

3. be the matter of a Commandement. 3. Since the firſt Table did ſo deſcend to particulars as by a diſtinct precept to appoint the day of his worſhip: it is not unlikely that the eſſential and Natural manner of doing it ſhould alſo be diſtinctly provided for, ſince the circumſtantial was: but that could not be at all, if it was a portion of the firſt Commandement: for then the ſenſe of it muſt be according to the firſt intention, that images ſhould not become

4. our Gods. 4. The Heathens did not ſuppoſe their images to be their Gods, but repreſentments of their Gods, and therefore it is not ſo likely that God ſhould by way of caution ſo explicate the firſt Commandement; when there was no danger of doing any ſuch thing; unleſs they ſhould be

5. ſtark mad, or fools and without underſtanding. 5. When God forbad them to make and worſhip the likeneſs of any thing in heaven and earth; he ſufficiently declar'd that his meaning was to forbid *that manner* of worſhipping not *that Object*; for by ſaying it was *the likeneſs of ſomething* it declar'd that this likeneſs could not be the Object of their worſhipping; for becauſe it is the image of a thing, therefore it is not the thing they worſhip'd; and it cannot be ſuppos'd of a man that he can make the image of the Sun to be his God, when he makes that image of the Sun, becauſe he thinks the Sun is the moſt excellent thing. When therefore in the firſt Commandement he had forbidden them to acknowledge the Sun, or any thing elſe but himſelf to be God; In the next he forbids the worſhipping himſelf or any thing elſe by an image. But of this I ſhall ſpeak more afterwards; becauſe it relates to the moral duty.

5. But I obſerve that all thoſe Modernes who confound theſe two Commandements have not that pretence which the Ancients had; and have quitted all that by which ſuch confuſion could have been in any ſence tolerable. For *Philo* and thoſe Ancients who followed him; reckon the firſt Commandement to be; [*I am the Lord thy God, &c.*] by which God would be acknowledged to be the Lord: and the ſecond did forbid *any ether beſides him.* So that there might be ſome appearance of reaſon to make the firſt Commandement affirmative, and the ſecond Negative; The firſt to declare who is God; The ſecond to forbid Polytheiſme, The firſt to declare his *Entity*; the ſecond to publiſh his *Unity*: The firſt to ingage their duty to him who had ſo lately endear'd them by freedom from captivity: The ſecond to forbid the adopting the Gods of the Nations with whom they were now to converſe.

I con-

I confeſs that theſe reaſons are not ſufficient; for they multiply where the re is no need; and make a diviſion without difference; and leave all thoſe periods which are about images to be of no uſe, no ſignification; and concerning their own practice and religion in the matter of images, though it is certain they wholly deriv'd it from the Commandement, yet they take no notice of any warrant at all deriv'd from thence; but ſuppoſing that they did make the diviſion for theſe reaſons, and that theſe reaſons were good, yet all the Modernes quit all this pretenſion; and allow but three Commandements to the firſt Table, and divide the ſecond into ſeven; to effect which they make two Commandements againſt Concupiſcence: concerning which I will not ſay they might have reckon'd more according to the multiplication of the objects; four as well as two: but this I ſay, as it is wholly without neceſſity, and very deſtitute of any probability; ſo it is done againſt the very order of words. For although *Moſes* in *Deuteronomy* reckons the Concupiſcence of the wife firſt, yet in *Exodus*, which is the copy of the Decalogue as it was given, *Moſes* reckons the Concupiſcence of the houſe firſt: So that the ninth Commandement lies in the body of the tenth; and the tenth lies part of it before the ninth, and part of it after: which is a prejudice againſt it greater then can be outweigh'd by any or all the pretences which are or can be made for it: eſpecially ſince by the opinions of the Roman Doctors, theſe two cannot as they lie here make two objects: for to covet another mans wife, is the ſame as to covet another mans ſervant, that is, as a poſſeſſion; for multitude of wives was great riches, and the peculiar of Princes, as appears in *Nathans* upbraiding *David*, and the caſe of *Solomon*: but to covet the wife *propter libidinem* is forbidden by the ſeventh Commandement, as the Roman Doctors teach, and under that they handle it. Therefore the wife, and the ſervant and the beaſt of another man being here forbidden to be deſir'd as matter of Covetouſneſs make but one object, and conſequently but one Commandement: and if becauſe a difference can be fancied, the wife and the houſe make two objects: then the ſervant makes a third: for a houſe differs from a wife no more then a ſervant from a houſe, the uſe of theſe is as different as of thoſe and can make as diſtinct objects of appetite and deſire; and therefore either they all muſt make but one Commandement, or they muſt make more then two.

6. But the Church of *Rome* and the Lutherans have ſeveral intereſts, for other reaſons they have none in ſo doing. The Church of *Rome* confounds the two Commandements, leſt the worſhipping of images ſhould appear to be forbidden. For if it be a diſtinct Commandement which forbids the worſhip of images; then becauſe all falſe objects of worſhip are ſufficiently forbidden in the firſt; it will not be a competent anſwer to ſay, we doe not worſhip images as Gods, we doe not make idols of them; for to worſhip any thing as God is not forbidden in the ſecond Commandement, but in the firſt: but therefore leſt the ſecond Commandement ſhould ſignifie nothing, it follows, that the taking of images into religion, or the worſhipping God whether true or falſe by an image is there forbidden. But if theſe two Commandements were one, then they ſuppoſe, that this of forbidding images being a purſuance of the prohibition of having any other Gods, expounds it ſelf onely to mean, the making images to be God, which becauſe they doe not; they hope to ſtand upright in the Scrutiny concerning this Commandement.

7. But to this I return this account: That although it be certain that if

theſe Commandements be divided, it will follow that this manner of Religion by image-worſhip, is particularly forbidden as a falſe manner of worſhipping and conſequently is upon no pretence to be introduc'd into religion; yet if we ſhould ſuppoſe them to be but one Commandement, it will not follow that images are not forbidden to be us'd in religious worſhippings. For if God forbad them to make *Deos ſculptiles*, Engraven Gods, that is, to worſhip ſuch Gods as may be depicted or engraven, ſuch as the Sun and Moon, *Apis* and *Jupiter*; the oxe of Egypt or the fire of *Perſia*; then by the ſame reaſon we conclude that *Deus ſculptilis* is no God, and therefore to make the God of Iſrael to be a God depicted or engraven does diſhonour and depreſs him to the manner of an idol. For therefore in the Decalogue recited by *Philo* and in the ſenſe of all the Ancients; the reaſon againſt making an engraven God is, *Ego ſum Deus tuus Zelotes*, Iam thy God, I am thy Jealous God; that is, I who cannot be repreſented by ſuch vanities, I am thy God, but they are not, who can. * Adde to this; that ſince the Doctors of the Roman Church make the Decalogue to be the fountain of all Moral Theology and by that method deſcribe all caſes of Conſcience; it is neceſſary that they take into the body and obligation of every Commandement not onely what is expreſs'd in the letter and firſt ſignification, but the *Species*, the relations, the ſimilitudes, the occaſions, any thing that is like the prohibition, and concerning which we cannot tell whether it be or no; and upon this account if they can retain images or think to honour God by the uſe and worſhipping of them; they may be confident of any thing, and may as well uſe ſome pollutions of the fleſh, as ſuch pollutions of idols.

8. But there is alſo more in it then thus. For although it is uſually ſuppoſed by learned perſons, that *Philo* the Jew, *Athanaſius*, S. *Hierom*, and S. *Auſtin* are of opinion that the two Commandements are not to be divided, but are all one: yet if we look into their ſayings we ſhall find them to have other effects then they ſuppoſe. For they making the Preface to be the firſt Commandement, [*I am the Lord thy God which brought thee out of the land of Egypt*] doe ſuppoſe that the object of Religion and Divine worſhip is ſufficiently declar'd in that they think the ſame of that as all other men doe of the following words: [*Thou ſhalt have no other Gods but me*] viz. That God propoſing himſelf as their God, whom onely they were to worſhip, did by that ſufficiently exclude the worſhip of all falſe Gods, or giving Divine worſhip to any thing beſides himſelf: So that when the object is ſufficiently provided for as it is in the firſt Commandement however it be computed, the former arguments will return upon them, and it will be moſt probable that the next proviſion be made for the manner of the Divine worſhip; and then the uſe of images in religion and the Religious worſhip of them will be by a neceſſary and immediate conſequent forbidden: for the forbidding *Deos ſculptiles*: forbids not onely other Gods; but forbids them with that reaſon and demonſtration. They that can be ingraven or painted are no Gods, and therefore images and falſe Gods are equally forbidden, where ever an image is join'd to a God, there is a falſe God, or no true God: for an image and the true God are inconſiſtent. So that where ever there are two Commandements before that of taking Gods Name in vain, as it is amongſt all the Ancients (*Clemens Alexandrinus* onely excepted) there it is moſt likely that the firſt provides for *the object* of Divine worſhip *affirmatively*, and the ſecond for the *manner negatively*: and the effect of this will be, that they are in their Diviſion of the Decalogue almoſt wholly deſtitute of authority or warrant from the Ancients, for they all make four Comman-

Commandements in the firſt Table, at leaſt; The Jews uſually indeed did reckon five: taking in that of honouring our Parents, but they alwayes made that of the Sabbath to be the fourth; by all which it muſt needs be, that they muſt lie under the ſame objection which they would fain avoid: and though they confound thoſe two which we uſually now reckon the two firſt; yet becauſe the Jews and ancient Chriſtians who reckon'd otherwiſe did account one Commandement to the ſame purpoſe as we reckon the firſt; that which follows can never be prov'd to mean any thing but a prohibition of that manner of Divine worſhip by images; for it implies that to worſhip God by an image, is to worſhip an idol: an image of God when it is worſhipped is an idol, for neither can the true God have an image, neither will he be worſhipped by an image. Now though this will not at all concerne the images of Saints, but onely the worſhip of God by an image, yet even this alſo when they think this image worſhip ſhall be a worſhipping and honouring of God indirectly, and an act pleaſing to him, will come under this Commandement, as certainly and more apparently then fornication or intemperance ſhall come under the ſixth or ſeventh; whither their Doctors uſually reduce them.

9. This thing more I am willing to adde concerning the diviſion of the Decalogue: That when the Ancients did reckon the preface or introduction to be the firſt Commandement; it is not certain that they put the words of [*Thou ſhalt have no other Gods but me*] to the Second: For as for *Philo*, he does not recite them at all, but reckons the ſecond otherwiſe then it is in *Moſes* books, and it is not certain how he thought in this queſtion to him that well conſiders his copy of the Decalogue. For he thus begins [I am the Lord thy God who brought thee out of the land of Egypt. Thou ſhalt not make any graven Gods to thy ſelf: nor any abhomination of Sun and Moon: nor of any thing that is on the earth, or that creeps in the waters: I am thy Lord, the jealous God, &c.] Now in this which is firſt and which is ſecond is plain enough though *Philo* does not number them: but whether the words of that which we call the firſt Commandement, by him are underſtood in the firſt or in the ſecond does not hence appear. But then for S. *Athanaſius* whom the adverſaries reckon theirs, the caſe is yet clearer againſt them: for [I am the Lord thy God] he reckons to be the firſt, omitting all that which follows until the ſecond Commandement: but the ſecond he plainly and perfectly reckons as we doe, [*Thou ſhalt not make to thy ſelf an idol, or graven image, nor the likeneſs of any thing*] So that it is probable, He begins the firſt Commandement with the Preface: but it is certain he reckons the ſecond as we doe. S. *Hierome* and S. *Auſtin* are pretended for them; but they alſo teſtifie againſt them, and againſt themſelves by an uncertain and contradictory ſentence (as I have ſhewed:) indeed the Apoſtate *Julian* is much more for them and does confound thoſe which we call the two Commandements, but yet reckons one before them, juſt as *Philo*: ſo that excepting *Julian* there will be found in antiquity, *Vel duo vel nemo*, ſcarce one or two that is on their ſide. However againſt them there is a great authority and very great probabilities of reaſon: of which in the following periods, I ſhall adde a more full account: In the mean time as the Church of *Rome* is deſtitute of any juſt ground of their manner of dividing the Ten Commandements, ſo they will find it will not ſerve that intereſt they have deſign'd.

10. But then for the Lutheran Churches they have indeed as little reaſon for their diviſion, and a much leſs intereſt and neceſſity to ſerve and to provide for.

They therefore thrust the second into the first: lest it should be Unlawful to make, or to have Pictures or images; for they still keep them in their Churches, and are fearful to be aspersed with a crime forbidden in the second Commandement; they keep them I say, but for Memory onely, not for worship or direct Religion. But in this they are more afraid then hurt. For suppose the second Commandement to be distinct and wholly against images and their worship; yet every thing in the Commandement is not Moral, though the Commandement it self be. For God was pleas'd to appoint such temporary instruments of a Moral duty as were fitted to the necessities of that people; but such instruments were but like temporary supporters; plac'd there but till the building could stand alone. But whether this clause of having or making images be refer'd to the first or to the second Commandement, it is all one. If to the first, it means that therefore they are not to be made by them, lest they become the object of Divine worship. If to the second, then they were not to be made lest they become instruments of a false manner of the Divine worship: but in both, the prohibition is but Relative, as appears in the Parallel places of *Levit.* 19. v. 4. But especially *Levit.* 26. v. 1. *Ye shall make ye no idols, nor graven image, neither rear ye up a standing image, neither shall ye set up any image of stone in your land* [*to bow down unto it*] *for I am the Lord your God:* by which it is plain that the prohibition is not terminated on the image but referring to religion; and is of the same Nature as the forbidding them to converse with idolaters, or to make marriages with them; which God himself express'd to be lest they learn their evil customs; and all the reason of the world tells us, that such clauses whose whole reason is relative and instrumental, may be supplied by other instruments, and the reason of them or their necessity may cease, and consequently there can be no part of a Natural law, whose reason without a Miracle and the change of Nature can never alter. So that this fear of theirs being useless, they may without prejudice and interest follow that which is more reasonable. And this was sufficiently indicated by the act and words of God himself who gave order for the brazen serpent to be made, and the images or rather Hieroglyphicks* of Cherubim to be set over the propitiatory; which it is not to be supposed he would have done if it had been against his own Eternal law: He suffered them not to worship them; but to make them; to show that this was not against the Moral part of the Commandement, though that was: and the Ark could endure the five golden Mice and the five golden hemorrhoids because though they were images yet they were not idols, that is, were not intended for worship: but because Dagon was, it fell before the Ark; that could not be suffer'd: and in *Solomon*'s Temple beside the pomegranates and other imagery, there were twelve brasen bulls; but they were not intended for worship, and therefore it was free to the Jews to use them or not: but the calves of *Dan* and *Bethel* because they were *fusiles Dei*, graven images us'd in Divine worship were an abhomination: and upon the shekel of the Sanctuary was impress'd the image of *Aarons* rod and a pot of Manna, or thurible: it was lawful while there was no danger of worshipping them.

* Vid. Manasseh Ben Israel in Concil. q. 30. & Tertul. l. 2. contr. Marcion. c. 22. Gab. Vasquez. disp. 104. c. 6.

11. This then is the first instance of the Rule: The having or making of images though it be forbidden to the Jews in the second Commandement, yet it is not unlawful to Christians. But of this I shall say more in the following periods.

12. Now concerning the Religion of images, that is, worshipping God by them directly or indirectly; whether that be lawful to Christians; although

I have ſufficiently declar'd the negative already, by reproving the great ground of that practice, I mean, the thruſting the two Commandements together, and have proved that they ought not to be ſo confounded; or if they ought, yet that the worſhip of images is not concluded from thence to be lawful or permitted, yet I hope it will be neither uſeleſs nor unpleaſant if I determine this caſe upon its proper grounds, in theſe two inquiries: 1. Whether it be lawful to make a Picture or image of God? 2. Whether it be lawful to worſhip God by a picture?

Queſt.

WHether it be lawful to make a picture or image of God?

13. I anſwer negatively: and that upon the plain words of God in *Deuteronomy* which upon the account of the fifth Rule are to be accounted as an explication of the Moral law, and therefore obligatory to Chriſtians: as relating to the matter of the Commandement, giving a Natural reaſon for a Natural duty, and purſuing that with argument which before he had eſtabliſhed with authority, and writing that in the Tables of the heart which at firſt he deliver'd to *Moſes* in Tables of ſtone. *Take ye therefore good heed unto your ſelves,* Deut. 4. 15. 16.
for ye ſaw no manner of ſimilitude, in the day when the Lord ſpake unto you in mount Horeb out of the midſt of the fire: leſt ye corrupt your ſelves and make you a graven image, the ſimilitude of any figure, the likeneſs of male or female, &c. Now why did God ſo earneſtly remind them that they ſaw no image, but becauſe he would not have them make any of him. And this is frequently preſs'd by God in that manner which ſhewes it not onely to be impious to doe it againſt his Commandement, but fooliſh and impoſſible and againſt all Natural reaſon. *To whom will ye liken God? or what likeneſs will ye compare* Iſai. 40. 18.
unto him? ſaid God by the Propher. Meaning that there is none, there can be none, and you may as well meaſure Eternity with a ſpan, and graſpe an infinite in the palm of your hand, as draw the circles and depict him that hath no colour or figure, no parts nor body, no accidents nor viſibility. And this S. *Paul* argued out of *Aratus*.

Καὶ τοῦ γὰρ γένος ἐσμέν.

We are his ofspring: that is, we are made after his image and ſimilitude; Chriſt is the Prototype, and we are efformed after his image who is *the firſtborn of all Creatures*: Man is made after the likeneſs of God; Not man in his body; but Man in his ſoul, in his will and powers of choice, in his underſtanding and powers of diſcerning, in his memory, and powers of recording, and he that cannot make the image of a will, or by a graven image repreſent the underſtanding of a man, muſt never hope to make any thing like God: there is no way to doe that, but to make a man; and that although it be but an imperfect image of God, yet an image it is, and the beſt that is upon the earth. But now from hence the Apoſtle argues, *For-* Acts 17. 29
aſmuch then as we are the ofspring of God, we ought not to think that the Godhead is like unto gold, or ſilver, or ſtone graven by art, and mans device: If the inviſible, inexpreſſible part of man is the image of God, and we are his ſons by Creation expreſſing in our Souls ſome little things of his infinite perfection, it cannot be ſuppoſed that this image can make an image like God; and if it cannot be like him; it is not to be made for him; for nothing is more unlike him then a lie. The Athenians were dull people and knew not how to anſwer S. *Pauls* argument; but we are now adaies taught to eſcape from this. For it

is

is said, that it is true; Gods essence cannot be depicted or engraven; but such representations by which he hath been pleas'd to communicate notices of himself, can as well be describ'd with a pencil as with a Pen, and as well set down so that ideots may read and understand as well as the learned Clerks. Now because God was pleas'd to appear to *Daniel* like the Ancient of dayes, and the Holy Ghost in the shape of a Dove, and Christ in the form of a man, these representations may be depicted and describ'd by images without disparagement to the Divinity of God.

14. To these I give these answers; First the vision of *Daniel* seeing the ancient of daies, tells of no shape, nothing like an old man: but by that Phrase did seem to signifie the Eternal God; he tells of a head and hair like *pure wooll*, that is, pure and white, one of the Synonyma of light or brightness, like that of his garment, *like snow*; *his wheels were a burning fire, his throne a fiery flame*; that is in effect, when *Daniel* was asleep he had a vision or Phantasme in his head: where he had a representment of the Eternal God, in a circumfusion and a great union of light and glory, which he when he was awake express'd by metaphors imperfectly telling, what phantasme that was in which he perceiv'd the representment and communication of God; that is, he there set down the shadow of a dream of a bright shining cloud: for the metaphor is a shadow, and his vision was a dream, and what he dreamt he saw was but the investiture of God; like as when God by his Angel went in a cloud of fire before the sons of Israel, nay, not so much, for that was really so, this but a Prophetick extasie in his sleep: the images of which are but very unfit to establish a part of Divine worship, and an article of practice, against Natural reason and the letter of a Commandement. But, 2. I demand, whether did *Daniel* see the eternal God then or no? If he did not, then at the most it was but an angel of light in the place of God: and then this can never inferre the lawfulness of making any image of God, for it was onely Gods Angel, or a globe of glory instead of God and not God that appear'd in his own person. But if it be said he did see God, it apparently contradicts the Scripture: *No man hath seen God at any time*: and again, The eternal God *whom no man hath seen or can see.* The issue then is this, *Daniel* did not see God the Father, neither could he: Therefore God the Father was not represented to him by any visible species: therefore neither can we by any help or authority from this dream. And it is not sufficient to say, that though *Daniel* did not see Gods essence, yet he saw the representment: for he did not see any representment of God; he did not see God by any thing that express'd his person: for as for essences, no man can see the essence of a Bee, or a Bird: but sees it by some proper representment, but yet by that representment he properly and truly sees the bird: but *Daniel* did no way see Gods person or Nature, not so much as by any phantasme or image: an Angel of light, or the brightness of an Angel he might dream of in the extasie: but in no sense could he be said to see God, except onely by his Angel or Embassador. So that when it is said, *No man can see God*, it cannot be meant, that Gods essence can not be seen; for this had said no great matter: for no essence can be seen, but it must mean that God *dwells in an inaccessible light whither no man can approach* out of which he will send no emissions of representment or visibility; for if he had so done at any time, or would doe at all; it were not true, that *no man had seen him, or could see him*: for if he had communicated himself personally in any representment or visibility, then he had been seen, and in that instance and at that time he were not the invisible God. 3. Suppose *Daniels* vision had

1 Tim. 6. 15, 16.

had been of God himſelf; yet as it was done to him by ſpecial favour ſo it was for a ſpecial purpoſe; it was for a deſign of Prophecy and to declare future events in the matters of warre and peace; not to eſtabliſh a practice prejudicial to a Commandement: and it is ſtrange that a viſion or nights dream expreſs'd by way of rapture and clouds of Metaphor, communicated to one man, ſignifying uncertainly, told imperfectly after the manner of raptures and prophetick extaſies, intended to very diſtant purpoſes, never ſo extended by his own Nation or us'd to any ſuch end, ſhould yet prevail with Chriſtians (who are or ought to be infinitely remov'd from ſuch a childiſh Religion, and baby tricks) more then an expreſs Commandement, and Natural and eſſential reaſon, and the practiſe both of all the Jews and the beſt Chriſtians. There is nothing in the world though never ſo bad, but by witty and reſolved men may have more colours laid upon it to ſet it out, then this can from this pretenſion. 4. The viſion it ſelf if it were expreſs'd in picture as it is ſet down, would be a moſt ſtrange production of art, and a horrid repreſentation of Nature; and unleſs ſomething were ſuppos'd which is not expreſs'd, it would be a ſtrange new Nothing. For [the Ancient of dayes] does by no violence ſignifie an old man; for it being a repreſentment of Eternity, is the worſt of all expreſs'd by an old man; for that which is old is ready to vaniſh away; and nothing is more contrary to eternity. Again, here is no mention of the appearance of a man. There is indeed mention of a *head*, but neither of Man nor beaſt, bird nor fly expreſs'd: and hair like pure wool, but in what it is *like* excepting onely the purity is not told, nor can be imagined: after this there is nothing but *a throne of flames* and *wheels of fire*, and all this together would make a ſtrange image, a Metaphor to expreſs eternity, a head of I know not what light without ſubſtance, viſibility without a figure, a top without a bottom, the whiteneſs of wool inſtead of the ſubſtance of hair, and a ſeat upon wheels and all in flames and fire: that it ſhould ever enter into the head or heart of an inſtructed man to think that the great, the immenſe, the inviſible, the infinite God of heaven, that fills heaven and earth and hell ſhould be repreſented in image or picture by ſuch a thing, by ſuch a nothing is as ſtrange and prodigious as the combination of all the daughters of fear and ſleep and ignorance, 5. After this viſion of *Daniel* it was in the Church of the Jews eſteemed as unlawful as ever to make an image of God; and by this the primitive Chriſtians did not beleeve a warrant or confidence could be taken to doe any thing of that Nature: and they that now adaies think otherwiſe have a new underſtanding and a new religion, defying a Commandement andwalking by a dream; and are ſuch whom a precept cannot draw, but they follow what they underſtand not, and what was not intended to conduct their religion, but to ſignifie onely the events and great changes of the world. 6. If becauſe mention is made of *the Antient of dayes* in *Daniel*, it were lawful to picture God like an old man; we might as well make a door and ſay it is Chriſt, or a vine and call it our Maſter, or a thief and call it the day of judgement: a Metaphorical or Myſtical expreſſion may be the vail of a myſterious truth, but cannot paſs into a ſign and ſignification of it: it ſelf may become an hieroglyphick when it is painted, but not an image which is a μορφὴ εἰδικὸς and the moſt proper repreſentation of any thing that can be ſeen and is not preſent. They that paint a child to ſignifie Eternity doe it better then they who by an old man ſignifie him that can be no older to morrow then he was yeſterday. But by this I onely intend to note the imprudence and undecency of the thing: the unlawfulneſs is upon other accounts which I have reckon'd.

4.

5.

6.

15. Concerning

15. Concerning the humanity of our B. Saviour, that being a creature he might be depicted, I mean it was naturally capable of it: it was the great instrument of many actions, it convers'd with mankind above thirty years together, it was the subject of great changes, and the matter of a long story, and the conduit of many excellent instructions, and therefore might without all question be described as well as *Cesar's* or *Meletius*, *Marc Anthony* or the Kings of the Gentiles. It might be done: and the question being here onely of the making or having of it, abstractedly from all other appendages or collateral considerations, I need say no more of it under this title; but that it is neither impious nor unreasonable of it self to have or to make the picture or image of Christs Humanity, or rather of his humane Body. For against this there is neither reason nor religion, and if it be made accidentally unlawful that is not of present consideration.

16. But for the usual image of the Holy Ghost in the forme of a dove the pretence is great and fairer; no less then the words of Scripture. For in this instance that reason ceases for which God did prohibite the making of his image; for here they did not onely hear a voice, but also they saw a shape; for the Holy Ghost descended in the likeness of a dove: ἐν σωματικῷ εἴδει: *in a bodily shape.* So S. *Luke.* To this I answer, that the Holy Ghost did not appear in the shape of a dove at all; but the dove mention'd in the story relates only to the manner of his descending, and hovering over Christ. And
1. this 1. appears by the words in S. *Matthew* εἶδε τὸ πνεῦμα τοῦ θεοῦ καταβαῖνον, ὡσεὶ περιστερὰν, He saw the Spirit of God [descending like a dove]
2. that is, as doves use to descend, hovering and overshadowing of him. 2. The word ὡσεὶ, which signifies an imperfect resemblance, or a limited similitude, does not inferre the direct shape of a dove; but something of it; the motion or the quantity, the hovering or the lighting, like that of his appearance on the day
Act. 2. 3. of Pentecost; cloven tongues ὡσεὶ πυρὸς, as it were of fire; that is, something of it; to shine it may be but not to burn; to appear bright but not to
3. move. 3. This appears yet more plainly in the words of S. *Luke*, Καὶ καταβῆναι τὸ πνεῦμα τὸ ἅγιον σωματικῷ εἴδει, ὡσεὶ περιστερὰν ἐπ' αὐτόν. The Holy Ghost did descend in a bodily shape; as a dove upon him: where the [bodily shape] cannot mean the bodily shape of a dove, for then it must have been ὡσεὶ περιστερᾶς, as of a dove, like that of the *Acts*, ὡσεὶ πυρὸς; but it must wholly be referred to καταβῆναι: he descended as a dove uses to doe: but then for σωματικὸν εἶδος the bodily shape, it was nothing but a body of light; the greatest visibility, called by the Apostle, μεγαλοπρεπὴς δόξα, *the excellent*
2 Pet. 1. 17. *Glory*: which indeed was the usual investiture of Gods messengers in their appearances and visibilities: and that there appear'd a fire in *Jordan* at that time,
4. *Justin Martyr* against *Tryphon* the Jew affirmes expresly. 4. That this similitude was relative to the motion or the manner of a doves descent is so much the more probable because this acceptation and understanding of it is more agreeable to the design and purpose of the Holy Ghost's descending. For by [*flying*] the Jews did use in their Symbolical Theology to signifie, a Divine influxe or inspiration saith Rabbi *Jaccai* upon the ninth of *Daniel*: This descent therefore of the Holy Ghost in the manner of a doves flight signifies the gift of the spirit of God to his holy Son; who received him not by measures but the fulness of him: and from his fulness we all receive our portions.

17. I cannot deny but that amongst learned men there is great difference of apprehension concerning it; and the generality of men without examining it suppose

suppose the H. Ghost to have descended being invested with the direct shape of a Dove [ἐπελθοντ@. ἐν εἴδ@ περιστερᾶς πάντως@, so *Justin Martyr*: for he expresses the words otherwise then all the four Evangelists; they all say, ὡσὶ περιστερὰν, meaning as a Dove descends; he changes the case and makes it to be the shape or forme of a Dove: φάσμα ὄρνιθ@, so Origen calls it; the Phantasme or appearance of a bird; yet I will for the present suppose it so; because the ancients did generally beleeve so: but then I answer to the objection; That 1. although the Ancients did suppose it so; yet in the sixth Councel, that at *Constantinople* Can. 83. it is expressly forbidden to depict Christ like a Lamb, or the Holy Spirit like a Dove. 2. Suppose the fancy of the Ancients to have some reality in it; yet it amounted to no more then this, It was nothing but a light or fire effigiated into such a resemblance; or like a bright cloud which represents strange figures imperfectly, any thing according to the heart or fancy of them that behold it; and therefore is not so imitable as if it were a direct and proper appearance: So the Gospel of the Nazarens expresses it, καὶ εὐθὺς περιέλαμψε τὸν τόπον φῶς μέγα. Presently a great light did shine round about the place; and their apprehension of a dazeling light in such a resemblance is but an ill warrant to make a standing figure and proper imagery. 2. *Tertullian* supposes it was really and properly a very Dove indeed: and if so, the whole business is at an end: for any Dove may be pictured; but the Holy Ghost must not be pictur'd in that shape, though his errand and design was ministred to by a Dove. 3. And that indeed is the proper and full solution of this objection. Supposing that the shape of a Dove did appear, yet this no way represented him, or was to be used as a sign of him; and therefore it is observable when God had told the Baptist how he should know the Messias, and that the Holy Ghost should consign and signifie him, he makes no mention of a Dove; but of descending onely: not onely plainly intimating that the mention of a Dove was for the similitude of Motion not of shape, but also to signifie that the Holy Ghost himself was not at all to be represented as a Dove. But then if there was the shape of a Dove, as the Ancients suppose, it looks downwards not upwards; and was a Symbol not to signifie any thing of the Divinity or the personality of the Holy Spirit; but to signifie something in Christ, or in Christs body the Church, to represent the excellency and sweetness of Christ and of the Church, his perfection and our duty, the state of his institution and of our religion, and so they who thus teach of the apparition of a Dove, express the Symbol. The Dove was to represent that great meekness which was in Christ, and which he would insert into his institution as no small part of a Christians duty: which our B. Saviour was pleas'd also to express in the same similitude, [*be as harmless as Doves.*] *Philo* saies that in the Jewes Discipline a Dove signifies *Wisedome*, that is, a good, a wise, a Gentile, and Debonaire comportment, not the severity of retirement and a Philosophical life, but of a civil, sweet, and obliging conversation. Some say that this Dove did relate to that Dove which signified to *Noah* by an olive branch of peace that God was again reconcil'd to the world; and so did it please God to use the like Symbol when he would signifie that reconcilement which was by Christ to be effected, and of which the other was but a weak representment, and type, or figure. The world was now also to be renewed at the appearance of this Dove. But because this no way relates to the person or the Nature of the H. Ghost, it can no way hence be inferred that the H. Ghost may be represented by an image. This apparition if it was at all was Symbolical of something below, not representative of any

2. Lib. de cor. Christ.

3. Joh. 1. 32.

Matt. 3. 16.

Luke 2. 52.

thing

thing above: and in that ſence and to that purpoſe I doe not doubt but it may be lawful to make a picture of the dove that was ſeen, if I ſay, it was at all; and of the fiery tongues ſitting upon the Apoſtles; for theſe were not repreſentative of the Nature or perſon of the Holy Ghoſt but deſcriptive of the impreſſion that from the Holy Goſt was made upon them: and of this Nature is the expreſſion of the Baptiſt. *He ſhall baptize you with the Holy Ghoſt and with fire*; that is, from his baptiſme, or by his immiſſion you ſhall receive graces and gifts whoſe effect is properly expreſs'd by fire, which alſo ſhall be its Symbol.

18. And after all this; if it ſhould pleaſe God any perſon of the Bleſſed and moſt holy Trinity ſhould appear in any viſible ſhape; that ſhape might be depicted; of that ſhape an image might be made; I mean, it might naturally; it might if it were done for lawful ends, and unleſs a Commandement were to the contrary; and therefore ſo long as God keeps himſelf within the ſecret receſſes of his ſanctuary, and the Majeſty of his inviſibility, ſo long it is plain he intends the very firſt ſenſe and words of his Commandement: but if he ſhould cancel the great reaſon of his Commandement; and make that by an act of his own to become poſſible which in the Nature of things is impoſſible, that is, that an image can be made of God; I ſhould beleeve that God did intend to diſpenſe in that part of the Commandement, and declare that he intended it onely for a temporary band: For if the reaſon of the commandement were taken away; either the Commandement alſo ceaſes to oblige; or muſt be bound upon us by another reaſon, or a new Sanction, or at leſt a new declaration; or elſe it would follow that then his viſible appearance would become a ſnare to mankind. But becauſe yet he hath not yet appear'd viſibly and hath by no figure or idea repreſented the Godhead; and that it is a truth which muſt laſt as long as Chriſtian Religion laſts, that *No man can ſee God*, therefore it follows that it is at no hand lawful to make an image of God or relating to the Divinity. If a Dove be made it muſt not be intended to repreſent the Holy Ghoſt, * for beſides that no Dove did appear, nor ſhape of a Dove, yet if it did, it related not to the perſon of the Holy Ghoſt, but to the impreſſion made upon the perſon on whom the light deſcended: and if the figure of the crucifixe be made, or of Jeſus in the fleſh; it is wholly relative to the Creature, not to him as God; for that is impious, and unreaſonable and impoſſible to be done in any Natural proportion. And the like alſo is to be ſaid of thoſe expreſſions in Scripture, of the *hand of God*, his *eye*, his *arme*; which words although they are written yet they cannot, ought not to be painted: I doe not doubt but it is lawful to paint or ingrave an eye or a hand; but not an eye or hand of God, that is, we may not intend to repreſent God by ſuch ſculpture or picture; becauſe the Scripture does not ſpeak them to that end; that by them we may conceive any thing of God; for as *Heſſelius* well notes, theſe and other like expreſſions are intended to repreſent ſome action of God: ſuch as is that of *Pſal.* 78. *aliàs* 77. *verſ* 65. who brings in God, *excitatum tanquam dormientem, tanquam potentem crapulatum à circo*: awaken'd out of ſleep, and as a gyant refreſh'd [filled, gorged,] with wine: by which if any man ſhall repreſent God in picture, his ſaying, it may as well be painted as written, will not acquit him from inſufferable impiety.

Bibl. Vulg.

19. Now this which I have diſcourſed is evidently according to the doctrine

* *Si quis dicat quòd Spiritus S. in columba apparuit, & Pater in Veteri Teſtamento ſub aliquibus corporalibus formis ideoque poſſint & illi per imagines repræſentari; dicendum quòd illæ formæ corporales, non fuerunt à Patre vel Spiritu Sancto aſſumptæ, & ideò repræſentatio eorum per imagines, non eſt repræſentatio perſonæ Divinæ; ſed repræſentatio illius formæ ſecundùm ſe. propterea non debetur illis aliqua reverentia ſicut nec illis formis ſecundùm ſe. Nec illæ formæ fuerunt ad repræſentandas Divinas perſonas, ſed ad repræſentandum effectus, quos Divinæ perſonæ faciebant in rebus. Durand. in 3. Sent. Diſt. 9 q. 2. n. 15.*

ctrine and practice both of the Jews and primitive Chriſtians. Concerning the Jews *Tacitus* ſaies of them *Mente ſolâ, unúmq; numen intelligunt: profanos, qui Deum imagines mortalibus materiis in ſpecies hominum effingunt.* They acknowledge but one Deity, whom they underſtand in their mind onely: eſteeming all them to be profane who efforme the images of their Gods of corruptible matter into the ſhapes of men. And the teſtimony of S. *Clemens* of *Alexandria* is very full to this purpoſe: *Deum ex Moſis Diſciplina nec hominis effigie, nec ullâ aliâ re repræſentari,* God by the law *Moſes* was not to be repreſented in the ſhape of a man or any other figure: and for the Chriſtians that they alſo underſtood themſelves to be bound by the ſame law to the ſame religious abſtaining from making images of God is openly and generally taught by the Doctors of the Chriſtian Church for the four firſt ages together; as without ſcruple appears in the expreſs words of *Origen*[a], *Tertullian*[b], *Euſebius*[c], *Athanaſius*[d], S. *Hierom*[e], S. *Auſtin*[f], *Theodoret*[g], *Damaſcen*[h], and the Synod of *Conſtantinople* as is reported in the ſixth action of the ſecond *Nicene Councel*: the ſenſe of all which together with his own *Polydore Virgil*[i] thus repreſents; *Cùm Deus ubiq; præſens ſit, nihil à principio poſt homines natos ſtultius viſum eſt, quàm ejus ſimulacrum pingere,* Since the world began never was any thing more fooliſh then to picture God who is preſent every where: for this is (according to the ſharp reproof of the Apoſtle) to change the glory of the incorruptible God, into the ſimilitude ἐν ὁμοιώματι εἰκόνος[k], ſo it is in the Greek; into the ſimilitude of an image of a corruptible man, and of birds and beaſts, &c. then which words nothing can be plainer to condemn the picturing God: a thing which the very Heathens did abhominate,

Sed nulla effigies, ſimulachráq; nota Deorum,
Majeſtate locum & ſacro implevere timore,

ſaid *Silius Italicus* of the Temple of *Cadiz*; they had no images, no pictures of the Gods, but the houſe was fill'd with Majeſty and a holy fear. And this they did not of ignorance, nor of cuſtom; but out of reaſon and wiſe diſcourſe. When *Seneca* intreated his friend *Lucilius* to make himſelf worthy of God, he tells him how: *Finget autem non auro, non argento: non poteſt ex hac materia imago Dei fingi ſimilis*: Not with gold and ſilver; for of theſe an image like to God can never be made. And therefore *Tacitus* ſaies of the Germans, that they *nec cohibere parietibus Deos, nec in ullâ humani oris ſpeciem aſſimilare ex magnitudine cœleſtium arbitrantur*, They think they doe not know the nature of the Gods, if they ſhould thruſt them into walls, or depict them in the reſemblance of a Man or woman; *Nullum ſimulacrum finxiſſe antiquitatem*, ſaid *Macrobius*; The old world never made an image (meaning of God) *Quia ſummus Deus natáq; ex eo mens, ſicut ultra animam ita ſupra naturam ſunt, quò nihil fas eſt de fabulis pervenire*; becauſe the ſupreme God, and the mind that is borne of him, as it is beyond our Soul ſo it is beyond all Nature, and it is not fit that fables and fictions ſhould be addreſſed to him,

Nulla auri effigies, nulla commiſſa metalla.
Forma Dei mentes habitare & pectore gaudet.

God dwells in minds and hearts of good men, not in images and metals.

20. The next queſtion is of greater effect, and though the anſwer of it muſt needs be concluded from the former, yet becauſe it hath ſome conſiderations of its own and proper arguments it is worth a ſhort inquiry.

Queſt. Whether it be lawful for Chriſtians to worſhip God by an image?

21. Concerning which the beſt ground of reſolution is the Commandement; which it is certain the Church of the Jews did underſtand ſo, that they accounted it idolatry to worſhip God in any image whatſoever; Thus the Iſraelites were idolaters when they made the golden calf, for ſo they proclaim'd, *Theſe are*

Idem etiam videre eſt apud Diodor. Sicul.

[a] Stromat. 1.

[a] l. 7. con. Celſ.
[b] de coron. mil.
[c] l. 1. c. 6. præp. Evang.
[d] Orat. contra Gentes.
[e] in c. 40. Iſ. i.
[f] de fide & Symbol. c. 7.
[g] in Deut. q. 1.
[h] l. 4. de Orth. fide c. 17.
[i] l. 2. c. 23. de invent.
[k] Rom. 1. 23.

L. 1. in Somn. Scip. c. 2.

thy Gods ô Israel who brought thee out of the land of Egypt: and to morrow is a solemnity to Jehovah; said *Aaron.* The calf they intended as an image of their God and by it they intended to worship him, which is not improbable saies *Bellarmine*; which is certainly true said *Ferus*: and which is affirm'd by the Spirit of God; *they chang'd their glory into the similitude of a calf that eateth hay*: that is, they represented God who was their glory, by a golden calf; And concerning *Micah* though his Mother made an image, yet that it was for the worshipping of the God of Israel appears in all the story; for upon this account he hoped that the Lord would bless him, he took a Levite for his Priest, he asked councel of the Lord; yet these also he called his Gods which were but the images of God, by which it apears he was an idolater because he worshipped the true God by an image, which he had forbidden. The same was the case of *Gideon* who made a Covenant with them that God should be their King, yet he made an Ephod; that is, instituted a forbidden service to him; which thing became a snare to his house; and being a prevarication of this Commandement, was in its Nature an idolatrous worship; and yet it was but a superstitious or false worship of the true God: And this is affirm'd by the Christian Doctors. *Non vult Deus in lapidibus coli*, said S. *Ambrose*, God will not be worshipped in stones or graven images: and S. *Austin* affirmes that God in this Commandement did prohibit, *nè quis colat ullam imaginem Dei nisi unam eandem quæ cum ipso est Christus*: that we should worship no image of God but him that is the lively image of his person, that is, Jesus Christ: and this is so affirmd by all the Fathers, so confirm'd by the doctrine and practice of the Church, so adher'd to by all the Doctors of the Jews, that *Vasquez* finds himself constrain'd to confess, *clarè deducitur, non licuisse tum verum Deum in aliqua imagine venerari*: it is clearly consequent, that then it was not lawful to worship the true God in any image or representment.

In c. 7 Acts.

Judg. 17.

Ep. 31. ad Val.

119. ep. ad Januar.

22. But it is said, that though it was not then, yet now it is: for that was only a temporary precept, relative to the Jews because of their proneness to idolatry. So *Catharinus* affirmes, *totum hoc præceptum esse positivum, non morale.* This whole Commandement is positive, not moral: for however something related to the Jews, yet by this Commandement is onely forbidden to worship the images of false Gods, or the image of the true God with Divine worship.

Ut vid. est ap. Bellar. de imag.

23. Against this I have many things to say, 1. That idolatry is a sin against the law of Nature, or of prime religion; therefore whatsoever was idolatry in the Jews, is the same sin in the Christians. Indeed in the Intercourses between Man and Man, though the relative duty be bound upon us by the Commandement of God, yet the instances can be altered by humane authority and consent; as new kinds of incest; several instances of Murder, of treason and the like; but where not onely the law but the instances also are of Gods appointment; what is once is alwayes, unless God change the particular, which he never did in the present question. One case there is in which the particulars even of the present article can vanish: viz. when a particular is commanded apparently for a transient reason, and hath in it no essential reason no Natural rectitude; but the worshipping of God by an image is against Natural reason as I have proved by the unlawfulness and unreasonableness of making an image of God and shall further prove in the sequel; therefore although by reason of the Jews proneness to direct and prime idolatry the Commandement put new and accidental necessities (I mean the not having or making any pictures) yet the prohibition of worshipping God by an image having a Natural and essential rectitude and conformity to the *Simplicity* of a *Natural* and to the *Spirituality* of the *Christian religion*, it cannot be changed as the fancies

cies or the intereſts of Men ſhall require, and of this beſides the apparent reaſonableneſs of the thing we have an expreſs teſtimony from *Origen.* *Cæterum Chriſtiani homines & Judæi ſibi temperant ab his propter illud legis, Dominum Deum timebis ... Item propter illud, Non erunt tibi Dii alieni præter me, & non facies tibi ipſi ſimulacrum, &c. aliáq; multa his ſimilia quæ adeo nos prohibent ab aris & ſimulacris, ut etiam emori jubeant citiùs quàm contaminemus noſtram de Deo fidem talibus impietatibus.* Both Chriſtians and Jews abſtain from theſe [worſhippings] becauſe the law ſaies; thou ſhalt have no other Gods but me: And thou ſhalt not make to thy ſelf any Graven image, and for many other things like theſe; which ſo ſeverely reſtrain us from altars and images, that they command us to die rather then to pollute our faith of God with ſuch impieties. The ſum of which is, that Chriſtians as well as Jews underſtood themſelves bound equally by this Commandement; and they were to ſuffer death rather then image-worſhip. L. 7. con. Celſ.

25. 2. To worſhip falſe Gods, or to give Divine honour to an image which is not God, is all one kind of formal idolatry; they may differ Materially, as the worſhipping of Silver does from bowing the head to Gold; but they are formally the ſame thing; for it is a making that to be our God which is no God; and this is ſufficiently forbidden in the firſt Commandement: Now ſince there are more ſins againſt that Commandement then one; let us ſuppoſe that the two firſt (as we reckon them) are but one: yet the next muſt be that which is forbidden in the explication; that is, to worſhip the true God with a falſe image; it is making God to be like an idol by repreſenting him in the ſame cheap impoſſible way; by uſing him like the falſe Gods, by making his image to become an idol; by giving him a forbidden, hated worſhip, by honouring him with a lie; all which if they be not great violations of the Commandement to which they doe belong; then there is but one kind of ſin there forbidden, and this is an act of ſo great ſimplicity and incommunicability that it hath neither Brother nor Siſter, Mother nor Daughter, Kiff nor Kin, analogy nor correſpondencies, addreſſes nor degrees: If it have not, why are ſo many particulars reduc'd to this Commandement by all Caſuiſts, friends or foes in this Article: If it have, this ſuperſtitious and forbidden worſhip being here nam'd in the Commandement, and ſtanding next to the prime idolatry, muſt at leſt have the degree of the ſame obliquity.

26. 3. He that makes an image of God and worſhips it; gives it the worſhip of God, whom it repreſents, or a different. If he gives a different and conſequently a leſs worſhip he does not worſhip God in the image; but his worſhip ſuch as it is is terminated on the image; and then comes not into this inquiry: it is no more then loving a bird for *Lesbia*'s ſake, or valewing a pendant for her ſake that gave it me; and this may be a civil valuation, and is to be eſtimated according to its exceſs or temper. But if by the image I mean to worſhip God; then I joyn them together in the act of adoration, and make them the ſame integral object: but then I give to both the ſame worſhip; and therefore unleſs they can both be united into an identity, I muſt needs give Divine worſhip to that which is no God; which is direct idolatry. If an image of God paſs the worſhip, which I give unto God, then it goes firſt to the image, then to God; therefore it muſt needs be the ſame: for that which paſſes from the image to God muſt not be leſs then what is fit to be given to God: But if it be the ſame; then it ought not at all to paſs upon that: If it be leſs then Divine it muſt not be given to God; if it be not leſs, it muſt not

pass upon that which is not God. If it be less, it is impiety when it is offer'd to the Prototype, if it be the same and not less, it is idolatry when it is offerd to the image.

26. But I need not make use of both parts of the dilemma; for it is certain that every relative worship must be the same in the middle and the end; and it is confessed by most of those who worship God and his Christ and his Saints by images, that the same honour is given to both. *Eundem honorem deberi imagini & exemplari* saies *Almain: ac proinde imagines S. Trinitatis, Christi, & Crucis cultu latriæ adorandas esse:* The images of the Trinity, of Christ, and of the Cross are to be ador'd with Divine worship. The same is the opinion of *Alensis, Aquinas, Bonaventure, Albertus, Richardus, Capreolus, Cajetan, Coster, Valentia,* the Jesuits of *Colen, Triers* and *Ment*z; who approved *Costers* opinion; and indeed generally of all the Roman Schooles, if we may beleeve a great Man amongst them; *Constans est Theologorum Sententia, imaginem eodem honore & cultu honorari & coli quo colitur id cujus est imago,* said *A*z*orius:* and he supposes this to be the mind of the Councel of *Trent*, and insinuated by the second Nicene, and certainly he was in the right. For though the Councel of *Trent* us'd much caution in their expression of this invidious article, and expres'd no particular honour, but that due honour and worship be given to them; yet when at the latter end of the decree it approves the Second Nicene Councel and refers to that in the Article; it is plain that the Councel of *Trent* intended such honour and worship to be due, as the Councel of *Francfurt* said was not due; neither is it to be imagined they durst contradict so constant an opinion, or openly recede from their great *Aquinas.* They have amongst them many fine devices, to make this seem what it is not; but that which is sufficient is this, that no distinction, no artifice will file the harshness off from this: for whereas the great thing that they say is this, that this worship being not for the image but for Gods sake pass'd through the image; does not give Divine honours to the image. But I reply: Is it a Divine honour that is given to the image or no: is it the same that is given to God; or is it another? If it be the same then though it be not for the image, but for God, yet it is for God that the Divine worship is given to the image; that is, it is for Gods sake that what is due to God alone is given to that which is not God; that is, for Gods sake they commit idolatry. But if it be not the same, then how doe they worship God by the image? *Idem est motus ad imaginem & exemplar*; saies *Aristotle*, and upon this account they suppose what is done to the image accrues to God; but then as they must take care that nothing be given to God that is less then himself, I mean that he be not worshipped with less then a Divine worship; so they may also remember, that by one motion and act of worship they cannot give less to the image then they doe to God; whatsoever is less then another is not the same with another: if therefore the worship given to the image be in any sense less then that which is given to God, then it is not the same: if it be not the same, then by the same motion, by the same act of worship there are two kinds of worship given: which is a contradiction, that one should be two: and also evacuates their great pretence of the reasonableness or possibility of doing worship to God by an image; because upon this account the same does not pass at once to both.

Instit. Morsl. part. 1. l. 9. c. 6.

27. 4. A good man is more an image of God then any Painter or Engraver can make: but if we give Divine honours to a good Man it were idolatry: therefore much more if we give it to an image. I use this instance to take off the trifle of worship *Relative*, and worship *Terminative*; for if we should offer

offer sacrifice to a man, build temples and altars to him over against his doors, burn lamps, make vowes, appoint Holy-daies, processions, Letanies, institute fraternities, give him the appellatives of honour which we usually ascribe to God, it would not serve our turnes to say; we doe it to God whose image this man is, and we intend the honor to God finally; there it rests, it onely passes thorough the good man, to be united to the glories of God; it were idolatry without all contradiction. I find that acts of humility have been done to the poor for Christs sake; and the actions were refer'd to Christ just as all other acts of charity and almes use to be; but if Divine honour be done to them it is so far from being entertaind by God as the correlative of that worship, that it is a dishonour to him; he being curious of his own peculiar, and having given no warrant no instance that can amount to any thing of that Nature, and he will be worshipped as *Plato*'s expression is τῷ μᾶλλον ἀρέσκοντι ζῴπῳ; in that way (not that we chuse, but) that he best likes. He that will pass worship to God by the mediation and interposition of a creature, must doe it by using that creature in all the endearments and regards for Gods sake of which it is capable. Thus by reverencing the Grey head and rising up to him, we doe honour to the great Father of Men and Angels: by releeving the poor we doe honour to Christ; but neither is Christ honour'd by us if we have a rich present to a King for Christs sake, or call a poor begger, *My Lord:* but when for Gods sake we pass those regards to several estates of Men which are the best usages which prudently they can rerequire, then the good we doe to them, whether it be honour or releef, relates to God: But for Gods sake to give Divine honours to a man; is as if to honour the Master we made his servant equal; or out of reverence to the body we should wear the shoo upon our head: and this argument must needs conclude against the worshippers of images; for although *Vasquez*, and I think he alone of all the world, owns the worst that this Argument can infer, and thinks it lawful to give Divine worship relatively or transitively to a man; yet when that whole Church excuses their worshipping of Saints by saying they give onely such veneration to them as is proportion'd to them, not *Latria* but *Dulia*, that is, not Divine worship in any Sense, for so they would be understood to speak and doe; it must needs be certain, that this argument is not to be answer'd, nor yet to be outfac'd. However, this is certain; that when the Arrians who beleeved Christ to be a meer creature, though they could not deny but that (according to the expres words of Scripture) he was the expres and bright image of his Fathers glory, yet becaus they gave to Christ Divine honours for his relation sake to his Father the Eternal God they were by the Fathers of the Church expresly call'd idolaters, as is to be seen in the first, third and fourth Orations of S. *Athanasius* against the Arrians and in S. *Cyril in Joh. l. 9. c. 41.* and divers other places: and whatever *Vasquez* or any man else is pleas'd to think of it; yet S. *John* was twice rejected by an Angel when he would have given Divine honour to him: when he would haue worshipped him: and yet that Angel represented God, and was the servant of Jesus. And upon this account we may worship every Creature; every fly, every Tulip, even the Onyons of Egypt; for every plant is more an image of God then a dead peece of Mettal, or Marble can be

Præsentémque refert quælibet herba Deum.

And it is in images as it is in the matter of Oaths, of which our B. Saviour said that he that swears by Heaven, or by the Earth, by the Temple, or by the

Gold, it is all a case: it all alike refers to God and does him dishonour if the matter be vain or false; so it is in images: every creature of God represents him and is capable of transmitting honour to him, as a woodden image: and yet because the best images of God are not susceptive of Divine honours so much as by relation, much less shall the worse images: and if it be idolatry to give such to a man, though with an intuition upon God: to doe so to a dead image which hath less likeness to God cannot be put of by a distinction, and a vain imagination. * I will not aggravate the evil practices or Doctrines which are in the Church of *Rome*, concerning this Question, but it is obvious to observe, that although this distinction of *relative* and *terminative* is invented by superstitious persons to make the question hard, and to themselves greater opportunity of quieting the Scruples of tender persons: yet they doe give, and openly profess to give Divine honours to that which is no God, which I thus demonstrate. *The Cross* on which Christ sufferd is but a creature: but to *the image of this* they give a *relative Divine honor*, therefore to *the Exemplar*, which is that Cross whereof the other are but images, they *terminate* the Divine honour. So *Jacobus Almain* in the words a little before quoted: "*The same honour is owing to the image and the Exemplar; and therefore the images of the Trinity, and of Christ, and* OF THE CROSS *are to be ador'd with the worship of Latria*; [*that is, Divine.*] To this purpose is that clause in the Pontifical published by the authority of *Clement* the eighth; *Crux legati quia debetur ei Latria, erit à dextris.* The Legats Cross must be on the right hand; because *Latria* or Divine Honour is due to it. Now this being the image can challenge but this Divine honour relatively; but the Cross that *Helena* found at *Jerusalem* was the Exemplar, therefore to that the Divine worship is due *ultimatè & terminativè*, it rests there; which is as down right idolatry as can be defin'd. But *Aquinas* proves it ought to be so by this Argument, That in which we place the hope of our salvation to that we exhibit the worship of *Latria*, or Divine worship: but in the Cross we place the hope of our salvation, for so the Church sings,

Pontif. Rom. p. 672.

O Crux Ave spes Unica
Hoc passionis tempore:
Auge piis justitiam,
Reisque dona veniam.

" All hail O Cross who art our onely hope in this time of our suffering: Increase the righteousness of the righteous, and give pardon to the guilty. I could adde many more things to the same purpose; but because I Intend not an accusation of any one, but institution to every one that needs it; I shall onely observe that this distinction is us'd with them as Miracles and the gift of tongues was; not for them that beleeve, but for them that beleeve not: so is this, for strangers, and them that make objections, not for the obedient that worship images and break the Commandement: for they must or may doe more then give a relative worship: but yet because it concernes us and them, I adde this observation.

* *Salve sancta facies nostri Redemptoris,*
In qua nitet species Divini splendoris,
Impressa panniculo nivei candoris.
Salve vultus Domini, imago beata,
Nos deduc ad propria & felix figura
Ad videndum faciem Christi, quæ est pura.
. . . . . .
* *Ave signum triumphale, felix hasta.*
Nos unice per te fixi sanctia.

28. 5. That if Divine worship, or *Latria* be in any sense given to an image, no distinction can save it harmless: For if it be given at all, it is not chang'd in kind, by being alter'd in circumstance. It is that kind of worship which all the

the world underſtands to be proper to God; now whether it be for it ſelf or for any other thing, is nothing but an inquiry for what cauſe this incommunicable worſhip is communicated to them; that is, a looking after the cauſe of a thing, which no cauſe can legitimate, and whether this be proper or improper, yet ſtill it is idolatry in one of the ſenſes; whether it be direct or indirect, it ſtill gives but an appellative and ſpecificates the idolatry: for that which in its whole Nature is unlawful, and unnatural, cannot be lawful in a certain reſpect. *Idololatræ dicuntur qui ſimulachris eam ſervitutem exhibent quæ debetur Deo*, ſaid S. *Auſtin*: He who gives that to an image which is due to God is an idolater: But he who anſwers that he does that thing but in this or this manner, confeſſes the thing done and tells you how: but if the manner deſtroyes the thing, then it is not the ſame worſhip; and then what need the diſtinction of the manner which muſt ſuppoſe the ſame matter; but if the manner does not deſtroy the thing, then for all the diſtinctions it is idolatry. L. 1. de Trin. c. 6.

29. 6. I conſider that in the firſt Commandement where *Atheiſme* and *Polytheiſme*, and *Allotheiſme* are forbidden directly and principally, and whatever is like it, or even with, or under it; the preface or the reaſon of it is expreſs'd by God; [*I am the Lord thy God*] plainly declaring that whatſoever is introduc'd againſt that Commandement is alſo againſt that reaſon: God is not our God, if we acknowledge *none*, or if we accept of *many*, or *any other*; ſo that by this precept and upon this account, *idolatry in the object* is forbidden. But in the next precept, or (if it be the ſame with this) in the next periods of this Commandement, there is another thing forbidden upon another reaſon: *Thou ſhalt not worſhip any graven image, for I the Lord thy God am a jealous God*, meaning that as his being our God infers that none elſe muſt be made our God or have Divine honours done to it; ſo the ſuperaddition of this attribute and appellative of God, that as he is our God, ſo alſo he is a jealous God, in this very matter of Entercourſe with us, infers that we muſt not onely doe *what* he bids, but alſo in his own way, the thing and the manner too are taken care of. And if he had in the ſecond precept onely forbidden Divine worſhip to be given to any artifice or to any Creature; the proper reaſon for it had been [*for I am the Lord thy God*] but when to other words he puts another reaſon, it is certain it muſt mean ſomething new and not ſignified in the firſt periods: But then, becauſe the worſhipping of any image of God with Divine worſhip for the ſake of the Exemplar is that which is neereſt and likeſt the manner of the Gentiles; and does inſenſibly ſteal the heart of man away, and depreſſes our great thoughts of the Eternal immenſe God into the circumſcription of an image, and draws the mind from ſpiritual to material entercourſes, and therefore does by immediate conſequence leſſen the honour of God and the propriety of the Divine worſhip, that all this ſhould be forbidden is juſtly inferred from the reaſon; for of theſe things no better reaſon in the world can be given, then that God is a jealous God; and will not have his honour directly or indirectly given to any thing to whom himſelf is not pleas'd expreſsly to impart it; and therefore there is a Natural proportion in the reaſon to the prohibition: for ſince it is uſual in Scripture to call idolatry by the name of fornication or adultery: God is pleaſed here alſo to forbid that manner of worſhip which he accounts adulterous, and declares he will not endure it becauſe he is jealous: and let it be imagined, what can be the effect of that reaſon? ſomething ſpecial muſt be apportion'd to it, leſt it be to no purpoſe: but that images be not taken for very God, that they may not finally and for themſelves receive Divine

Honour

honour is the effect of the first reason, and of the first precept: whatsoever is next to this, must be what is also next expres'd, that is, Not that images be not worshipped for God; but that in the worshipping the true God which is commanded in the first period, we doe not bow the head and knee before images which is forbidden in the second periods: And if men were in their proportion as jealous of their duty and of avoiding Gods anger and escaping the Divine judgements, and of preserving their Eternal interest, as God is of his Honour; they would never so much intricate their duty, and brande the Commandement, and doe that which is so much against the letter of it, and against the doctrine of that Church to whom the law was given, and against so much reason; and for the doing of which they are forc'd to use so much violence of answer, such convulsions of distinction: a jealous Man will not endure such comportments in his wife; for the justification of which she is so hardly put to it, that she must have half a dozen answers before she can please her self, or think that she does well; and which after all, will look but like pitiful excuses. But above all excuses it would seem the worst, if she should say I doe admit another man but not as my Husband, but with a less regard and another sort of complication then I use to him; and that which I doe I doe it for his sake, he is so like him that he is his very picture; and he is his very great friend, and what I do, is for that very regard. A jealous man would hardly take this for satisfaction. And if it be consider'd that there is nothing so clear but something may be said against it, and παντὶ λόγῳ λόγος ἀντίκειται Every word can be contradicted by a word; and then how many presumptions, how many reasons, how many expres words, how many ages, and how many religions doe joyn in the condemnation of worshipping God by an image; it may very well be concluded that our jealous God will not endure half so much disobedience, wilful ignorance and obstinacy in such persons as against so much reason and religion and for so few and trifling pretences will worship God and his Christ by images against the words of his own Commandement.

30. 7. If it be inquired how an image can be an idol; the answer must be; by giving to it Divine worship, or something that is due and proper to God: Now whoever knowes it to be an image of a thing, if he have any use of reason, if he be not a changeling, beleeves better of the Exemplar then of the image; and knowes that the worship sticks not in the image: he cannot worship it for it self, but for something to which it relates, or for something that adheres to it, or is deriv'd upon it; still the honour goes beyond the Natural or artificial image. The image hath no worth of its own beyond the art or Nature; and can be estimated, but as *Silver*, or *Marble*, or *Carved*; and therefore no religion passes upon it for its own sake: Since therefore whatsoever passes on it is for the sake of that which it represents; an image that is understood to be an image can never be made an idol; or if it can it must be by having the worship of God pas's'd thorough it to God; it must be by being the analogical, the improper, the transitive, the relative (or what shall I call it) object of Divine worship. Now that this consideration may have its effect, I shall not need to say that an idol and an image is all one; though that be true in Grammar; and *Erasmus* said that S. *Ambrose* knew no difference between them, but that every image (made for religion) is an idol; and that he himself saw no difference: but because the Church in some ages hath supposd a difference; I shall also allow it: but find all the danger of any such allowance taken away by the instance of the brazen Serpent which did pass

In 1 Cor. 8.

under

under both Notions, for it was a meer image or representment of a Serpent and the commemoration of Gods delivering his people from them: but when it came to be us'd in a religious worship then it was an idol; permitted when it was a bare image, but broken when it pass'd into an idol. An image or an dol doe not differ in themselves but by use and custome of speaking: the Church calling it an image so long as it is used lawfully: but it is an idol when it is us'd unlawfully, that is in plain speaking, an image is lawful to be made or kept for some purposes, but not for other. It is lawful for story, for memory of an absent friend or valued person that is away, for the moving an affection, for ornament and the beauty of a place; but it is not lawful to have them, not lawful to make them with designes of ministring to religion or the service and worship of God: which I choose to express in the words of the Author of the famous books under the name of *Charles* the Great, *Nos imagines in basilicis positas, idola non nuncupamus; sed nè idola nuncupentur, adorare & colere eas recusamus.* We doe not call all *images* by the name of *idols*, but lest they become idols we refuse to worship them. But yet this I adde, that although in the use of the two Greek words, εἰκὼν and εἴδωλον, and of the Latine, *idolum* and *imago*, Men have troubled themselves with finding material differences; yet although it might be of some use in inquiring the meaning of the Ancient Doctors of the Church in the question of images, yet it will be wholly impertinent as to the Commandement. For God forbidding images used the word פסל which signifies properly a graven image; and because there were more sorts besides this, God was pleas'd to forbid תמונה which the LXX render by παντὸς ὁμοίωμα, the likeness of any thing: and it conteins *sculptile, fusile, ductile, conflatile*, that is, all sorts of representations, flat or extant, painted or carved; and the force of this word can be eluded by no distinction. But then as to the meaning of these words in the use of the Ancient Doctors, this is certain: that although about the time of the Second Nicene Councel, this distinction of *idolum* and *imago* was brought into the Christian Church, yet it was then new, and forc'd, made to serve the ends of new opinions, not of Truth: for in *Tertullian*'s time there was nothing of it, as appears by his words in his book *de idololatria. c. 3. Ad hoc necessaria est vocabuli interpretatio: εἶδος Græcè formam sonat; ab eo per diminutivum εἴδωλον deductum aquè apud nos formulam fecit. Igitur omnis forma, vel formula idolum se dici exposcit: éstque idololatria, omnis circa omne idolum famulatus & servitus.* Every image (meaning, of God) is an idol, and all worship and service about them is idolatry. This is plain, and short. And that once for all I may make it clear, that an idol and an image was all one in the sense of the word and of the Ancient Church it is undeniably so used in *Cicero lib* 1. *de fin. bonor. & mal. Imagines quæ idola nominant, quorum incursione non solum videamus sed etiam cogitemus, &c.* and for the Church S. *Chrysostome* is an authentick witness, for he calls the pictures by which they then adorn'd their houses by the names of idols, οἰκίας κατασκευῶμεν εἴδωλα πανταχῆ ἑξόανα ἱστῶντες, we trim our houses, placing every where idols and pictures. L. 4 p. 17.

31. Upon this account we may understand the meaning of the primitive Fathers who would not endure that a picture should be made, or kept, who condemn'd the art it self, as deceiving and adulterous, who said that God forbad the very trade it self: So *Tertullian, Jam verò ipsum opus personarum quæro an Deo placeat qui omnem similitudinem vetat fieri, quanto magis imaginis suæ?* Can the making visors please God who hath forbidden all similitudes or images and pictures to be made, and how much more any image De spect. c. 23.

of

Stromat. l. 6 & in Protrep. p. 41. edit. Paris. L. 4. con. Celf. of himself? *Nobis enim eſt aperte vetitum artem fallacem exercere*; ſaid S. *Clement* ſpeaking of pictures and images, the very art is forbidden to Chriſtians. The ſame is affirmed by *origen*, and long after by S. *Chryſoſtome*; but *Tertullian* ſaid, that the Divel brought painting and carving into the world; and addes, *Toto mundo ejuſmodi artibus interdixit ſervis Dei*, that God hath forbidden to all his ſervants in all the world to uſe ſuch arts. But they are to be underſtood by their own words ſpoken when they had the ſame reaſon and leſs heat; for that the very making of images was forbidden by God by way of caution onely and proviſion, not for any turpitude or unreaſonableneſs in the thing, but for the danger which then was pregnant themſelves affirme: *Similitudinem vetans fieri omnium ..... oſtendit & cauſas, idololatriæ ſc. ſubſtantiam cohibentes: ſubjicit enim non adorabitis ea, &c.* So *Tertullian*. To the ſame purpoſe is that of *Origen*; ſpeaking of the Jews, *There was no painter or ſtatuary admitted into their cities, their laws driving away all this kind of people, ne qua occaſio præberetur hominibus craſsis, neve animi eorum à Dei cultu avocarentur ad res terrenas per hujuſmodi illecebras*: leſt any occaſion ſhould be given to rude people of drawing their minds from the pure worſhip of God to earthly things. Now if this ſenſe was alſo in the Commandement, it is certain that this was but temporary; and therefore could change: and that it was changeable appears in this that God by a Divine Spirit aſſiſted *Bezaleel* and *Aholiab* in the like curious arts; and by other inſtances which I have already reckon'd*: Now this ſenſe and ſeverity might perpetually oblige the Jews; becauſe during the whole abode of their Synagogue there was almoſt an equal danger by their perpetual converſation with idolatrous Nations: and therefore it was very well ſaid of *Tertullian* in the matter of the brazen Serpent, "If thou regardeſt the law, thou haſt Gods law, *Make not the likeneſs of any* "*thing*: But if thou conſiderest that afterwards *Moſes* did command them to "make the likeneſs of a Serpent, doe thou alſo imitate *Moſes*, and againſt "the law make no likeneſs, unleſs God alſo give thee a Commandement as he "did *Moſes*. Meaning that the ſingular example was no prejudice to the law: *Exceptio firmat regulam in non exceptis*: This part of the Commandement was by God diſpens'd within that inſtance and in a few more; but theſe few confirm the rule in all things and inſtances, beſides themſelves, for they ſay, that without Gods leave we may not break this Commandement. In *Tertullian*'s time this very neceſſity did ſtill abide, and therefore they had the ſame zeal againſt images and *whatſoever gave ſubſtance to idolatry*; thats *Tertullian*'s phraſe for Painters and Statuaries. But then this alſo is to be added: That all thoſe inſtances in the Old Teſtament of the brazen Serpent, the bulls, the Pomegranats, the Cherubims, the curious works of *Bezaleel*, are not to be us'd as arguments againſt the morality of the ſecond Commandement: becauſe theſe were ſingle cauſes, and had their ſpecial warrant or approbation reſpectively from the ſame fountain whence the prohibition came, at leaſt let them prevail no further then they ought; let them mean no more then they ſay, and let us goe no further then the examples: by which we find images made, for other uſes, but not for worſhip: and therefore the Commandement may be moral in all the periods of it, this onely excepted which relates to the making of them.

D. idol. c. 3.

L. 2. c. 22 adv. Marcion.

* Sup. r. 6 n. 10.

De idol. c. 5.

But when we conſider further that *Solomon* caus'd Golden Lyons to be made about his throne and the Jews imprinted images on their money, and in Chriſts time they us'd the images of *Ceſar* on their Coin, and found no reprover for ſo doing, this ſhowes that there was ſomething in the Commande-

ment

ment that was not moral; I mean the prohibition of making or having any images: For to theſe things we find no command of God, no diſpenſation, no allowance poſitive: but the immunity of reaſon and the indemnity of not being reproved, and therefore for ſo much as concernes the making or having pictures and images we are at liberty without the warranty of an expreſs Commandement from God: The reaſon of the difference is this, The firſt inſtances (excepting that of the brazen ſerpent which becauſe it was to be inſtrumental in a miraculous bleſſing muſt ſuppoſe a Divine Commandement; like a Sacrament or Sacramental) were of images us'd in the Tabernacle or Temple, and ſo came within the verge of Religion; and for their likeneſs to the main ſuperſtition might not be ventur'd upon without ſpecial leave or approbation: and therefore God gave command for the images of the Tabernacle, and by his Majeſtatick preſence in the Temple approv'd all that was there. Upon what confidence *Solomon* ventur'd upon it; and whether he had a command or no I find not recorded, but *ex poſt facto* we find it approved. But for the other images which related wholly to civil uſe; right reaſon and the common notices of things was their ſufficient warrant; while they could have no end in diſobedience, no temptation to it, no reward for it; when it did not contradict any Natural or Religious reaſon; there was no danger of idolatry, no ſemblance of Superſtition. So that the reſult is this; The Jews were forbidden to make or have any images; and this was becauſe of their danger: but this was no moral law. But the very making and having them for worſhip is forbidden as the thing it ſelf is. Juſt as adultery and wanton looks are forbidden in the ſame Commandement, and are acts of the ſame ſin; ſo is worſhipping and having them for worſhip, it is that which S. *Paul* calls in the matter of uncleanneſs, *Making proviſion for the fleſh to fulfil the luſts thereof.* Making images and pictures to this end, is providing for the fleſh: For this alſo is fornication and ſpiritual whoredom. And as we may look upon a woman; and be innocent; ſo we doe not look upon her for luſt: ſo may we have or make pictures and images,; but for worſhip we may not: and in this ſenſe of the words even this period of the Commandement is alſo moral; and obliges us as much as the Jewes: but if thoſe words did abſtractedly and without their relation bind the Jews; it did never bind us but by way of caution and prudence; that is, when we are in the ſame dangers as were the Iſraelites, in the rudeneſs and infancy of their Church eſpecially. * And this we find in *Tertullian*; that when he had affirm'd the very art of painting and engraving to be unlawful; to them who enquire what then ſhall the poor men doe who have no other means to get their living; he anſwers; let them paint tables and cupboards, and remove their art from danger of religion to neceſſary and fit proviſions for life; let them doe things as like as they were enabled by their art; ſo they were unlike the violations of religion; and therefore the Church celebrates on the eighth of *November* the memory of *Claudius Nicoſtratus* and their fellows who choſe to die rather then make images for the Heathen Temples; they were excellent ſtatuaries, but better Chriſtians. By which it is plain that he means the very art as it miniſtred to idolatry; for abſtracting from that miniſtery and that danger it was lawful enough,

Qui fingit ſacros auro vel marmore vultus,
Non facit ille Deos; qui colit ille facit.

He that worſhips the image he makes it an idol; and he that deſignes any aſſiſtance to the idolatry, or knowingly miniſters to it, he adopts himſelf

himself into a partnership of the crime. To which purpose was that of *Tertullian*, *Facio* (scil. *imagines*) *sed non colo: quasi ob aliam causam colere non audeat, nisi ob quam & facere non debeat, scilicet ob Dei essentiam utrobique: imò tu colis, qui facis ut coli possint.* He answers the objection of them that say, I make images, but I doe not worship them: as if (saies he) there were any reason forbidding thee to worship them; but the same for which thou oughtest not to make them; I mean, the Omnipresence of God. Nay thou worshippest them, who makest them that they may be worshipped. But in all other senses the making a picture, is not making an idol; and therefore that severe sense of the Commandement though as it is most probable it did oblige the Jews, and all persons in equal danger; yet because the reason may cease, and the danger be secur'd, when it is ceas'd, the obligation also is null; and therefore though that was in the Commandement; yet it is no part of its morality; but that excepted, every other clause is moral and Eternal.

De idol. c. 6.

32. 8. And all this is perfectly consenting to the analogy of the Gospel which is a spiritual worship, unclothed of bodily ceremonies, strip'd naked of beggarly rudiments, even those which God had commanded in the Old law; Christ placed but two mysterious ceremonies in the place of all the shadowes of *Moses*: and since Christianity hath shak'd off that body and outsides of religion, that law of a carnal commandement, that we might *serve God in spirit and truth*, that is, proportionable to his perfections, it cannot be imagined that this spiritual religion which worships God in praises and love, in charity and almes, in faith and hope, in contemplation and humility, in self-denial and separations from all corporal adherencies that are not necessary, and that are not Natural, I say it cannot be imagined that this spiritual religion should put on a phantastick body, which as much as it can, separates from a real: that Christianity should make a Vizor for God, who hath no body, and give that to him which the Heathens gave to their Devils; *Daemoniis corpora contulerunt*; they gave a body to their *Daemons* saies *Tertullian*, when they made images to them; that he who under the law of carnal ordinances could not endure an image, should yet be pleas'd with it under the pure and spiritual institution of the Gospel. A Christian must γνησίως θεοσεβείας ἀσπάζεσθαι worship God with genuine and proper worshippings, that is, ψυχῆς φιλῇ καὶ μόνῃ δουλείᾳ with the pure and only worship of the Soul. Now if the Ceremonials of *Moses* were contrary to this spirituality, and therefore was taken away by the Gospel: it cannot be imagined that images which are more contrary to a spiritual worship, should be let in by Christ, when they were shut out by *Moses*. * To this purpose they are excellent words which were spoken by *Clemens Alexandrinus*. "*Moses* many ages before made a law that there should "be no graven, no molten, no painted image or likeness of a thing made "amongst them, that we should not attend sensible things, but pass to those "which are perceiv'd by the understanding onely. For the daily custome of see-"ing him (*in effigie*) makes that the Majesty of God becomes vile and contem-"ptible, and by material Substances (Gross images) to worship that es-"sence which is onely discerned by the mind, is by the sense to undervalue the "Eternal mind.

De idol. c. 7.

Stromat. 5.

33. 9. And upon these accounts we find that the Christians were great haters of image-worship, and even of images themselves: and did deride the heathen follies, who in the midst of their witty disputations and wise discourses of God, did so unman themselves and baffle their own reason as to worship this invisible God by looking upon a contemptible image. To this purpose

purpose *Origen* discourses wisely; "God hath chosen the folly of the world, L. 7. con Cels.
"those amongst the Christians whose lives were most simple, modest, and
"more pure then that of the Philosophers, that he might put to shame those
"wise men who blush not to speak to liveless trunks as if they were Gods or
"images of the Gods. For what sober Man does not easily discerne him who
"after his excellent and Philosophical discourses of God or of the Gods,
"does presently look upon images, and offers prayers to them, or by the be-
"holding them as some conspicuous sign, strives to lift up his mind to the
"imagination of an intelligible Deity? But the Christian though but un-
"learned yet he beleeves verily that the whole world is the temple of God,
"and he prayes in every place, shutting his bodily eyes, but lifting up the eyes
"of his mind .... and being rap'd as it were beyond this world, he makes his
"prayers to God for great things. This is the advantage, the Spirituality and devotion of the Christian. Concerning which it were easy to bring many ancient Testimonies; which whoever is desirous to see, may find them frequently in the Fathers of the four first ages: but especially in *Irenæus l.1.cont. hær. c.24. Origen. l.7. contr. Cels. Tertull. de idol. c.5.* and *de coron. mil.* and *de Spect ac. c.23. Clemens Rom. Recogn. l. 5.* and *Clem. Alex. strom. 1, & 5. S. Chrysost. in Synod.7. Act. 6.* and *in 1 Cor. 8. Epiph. hær. 29. Amphiloch. apud Syn. 7. action. ead. Optatus l. 3. contr. Donat. S. Ambrose ep.31. ad Valent. S. Austin in Psal. 113.* all which speak of this Article so as needs no commentary, and admits of no evasion, decretorily and dogmatically and zealously.

34. Now against this heap of plain testimonies there is not any one cleer sentence and dogmatical proposition to be brought; and if there could be brought forty particular instances of a contrary practice, though there are not three to be had in pure antiquity and in authentic testimony, yet it could not in any degree abate the certainty of this doctrine: because the Doctors of those ages say that where ever there is any such thing, it is unlawful. *Epiphanius* did rend in peeces the veil at *Anablatha* neer *Bethlehem*, because it had in it the picture of a man; and this is so notorious that *Alfonsus à Castro* calls him an Iconoclast: but *Epiphanius* gives this account of it to the Bishop of *Jerusalem*, *Contrà authoritatem Scripturarum esse ut in Christi Ecclesia hominis pendeat imago*; and, *istiusmodi vela contra religionem nostram veniunt*: It is against the authority of the Scriptures, it is against our religion that the image of a man, that such veiles should be in the Church: and *Lactantius* as plainly, *Dubium non est quin religio nulla sit, ubicunque simulachrum est*; where an image is, it is certain there is no Religion: and S. *Austin* answers all pretensions to the contrary which can readily be drawn from Antiquity. "I know "(saies he) many that are worshippers of pictures but such as neither know "nor exhibit the force of their Profession, but they are such who are superstitious in their very religion, such which the Church would condemn, and daily seek to correct like evil children. This being the doctrine of the Primitive Church; if a contrary practice comes in, it is certain it is by corruption of faith and manners. The Temples of Gods and the images of Gods they had in equal detestation: not that they hated publike places of worship; but *Templa, non Ecclesias*, or *Dominicas*; for we must know that in the language of the Fathers by *Temples* they did mean such as the Gentiles had; such as the Holy Scriptures call the place of *Micah's* images; [*an house of Gods*] according to that famous saying of *Isidore*: *Templi nulla ratio quod non coronat simulachrum*: *It is no Temple that is without an image*, and it is no Church that hath one according to the Primitive L. 2. c. de orig. erroris. Judges 17. 5.

Christian doctrine: and it was remarkeable what is told by *Ælius Lampridius* in the life of *Alexander Severus*, that when *Adrian* the Emperour had commanded Churches to be built without images, it was supposed he intended them for the service of Christ: then which there needs no greater or cleerer instance of the doctrine and practice of the Holy Primitives.

35. But the best and most perfect account that can be given of the Christian religion in this article, is by the Ecclesiastical laws. The Councel of *Eliberis* in *Spain* made a Canon: *placuit picturas in Ecclesia esse non debere nè quod colitur aut adoratur in parietibus depingatur.* Pictures must not be in Churches, lest that which is worshipped or adored be painted upon the walls. From which plain place *Bellarmine*, *Perron*, *Binius* and divers others take great pains to escape: it matters not how, as to the question of Conscience; it is sufficient what *Agobardus* Bishop of *Lyons* above 800 years agoe saies in this very particular. " Now error is so grown, and is perspicuous that they " approach neer the heresy of the Anthropomorphites and worship images, " and put their hope in them, the cause of which error is, that faith is de- " parted from mens hearts, and they put their confidence in what they see. " But as when we see Souldiers arm'd or Husbandmen plowing or mowing " or gathering grapes in picture, or the pictures of huntsmen pursuing their " game, or of Fishermen throwing their nets, we doe not hope to receive " from them a Mullet, or a Monethis pay, handfuls of barley or clusters of " grapes: So if we see winged Angels painted, Apostles preaching, Mar- " tyrs dying, we are not to expect any aid or good from the images we see, " because they can neither doe good nor hurt. Therefore for the abolishing of " this superstition, *rectè ab Orthodoxis Patribus definitum est*, it was rightly " defin'd by the Orthodox Fathers that pictures ought not to be in Churches " lest that which is worshipped (viz. God or his Christ) be painted upon their " walls. To the same purpose the Fathers of the fourth Councel at *Constan-*
Syn. 7. Act. 6. *tinople* did quote the words of *Epiphanius* as we learn from the acts of the second Nicene Councel, in these words. " Take heed to your selves and " hold the traditions which ye have received, decline not to the right hand or " to the left: and remember my beloved sons that ye bring not images into " the Churches, nor into the Cœmeteries of the Saints: but by remembrance " place God in your hearts. To the same purpose was it decreed by another
An. Dom. 753. Synod at *Constantinople* of 338 Bishops, under *Constantius Copronymus*; forbidding all use of images in Churches or out of them: and so much of their decree as forbad the worship of images was followed by *Charles* the Great, and the learned men of that age, and confirm'd by the Synod at *Franckfurt* where the Bishops of *Italy*, *France* and *Germany* were called by the Emperour to that purpose To these if we adde the Councel of *Mentz*, and the second
Senon. 2, c. 26. Councel of *Sens* *, who commanded *populum moneri nè imagines adoret*, that the people should be warned that they doe not worship images; we have testimony enough of the Christian doctrine and usages of the best Men, and the best times.

Eliber. can. 36 *In ecclesia non oportere depingi quod colitur et adoratur.* Vnum etiam inpio Concilio Eliberino latum est de prohibendis imaginibus. Carolus loc. Theol. l. 5. c. 4. concil. 4. de pict. & imag.

36 Concerning the Christian doctrine; I suppose my self to have said enough in this Article. But besides the premises there is something peculiar to be superadded which concernes both Jews and Gentiles, and the uninstructed Laity of the Christians.

37. 1. Concerning the Jewes I have already made it appear that their religion

ligion was perfectly againſt images: But I have two things to adde which relate to them: Firſt that in the diſputations between the Jewes and Chriſtian Doctors in the Primitive Church, they never objected againſt the Chriſtians that they either had images or did worſhip them: as is evident to them that read the conference between *Juſtin Martyr* and *Tryphon*; and in the book which *Tertullian* wrote againſt the Jewes, and in diverſe other rencontres; in which the Jew was forward to object all that he could aſperſe the Chriſtian withall, and he on the other ſide as ready to defend his cauſe. But not one word in any of them of objection againſt the Chriſtians in the matter of images, which is an evident argument, that the uſe of images was not as yet known to the Church of the firſt ages.

2. For when the doctrine and manners of the Chriſtians began to be ſullied and degenerate; and ſhe who was a pure Virgin and dear to Chriſt began to fornicate with ſtrange imaginations; the Jew inſtantly became clamorous and troubleſome in the Article; profeſs'd himſelf to be ſcandaliz'd at the whole religion, and in all diſputations was ſure to lay it in the Chriſtians diſh. There was a famous Dialogue written a little before the time of the ſeventh Synod in which a Jew is brought in, thus ſpeaking to the Chriſtian; *Scandalizor in vos Chriſtiani quia imagines adoratis: Scriptura quippe ubique præcipit non facere quenquam ſibi ſculptile, vel omnem ſimilitudinem.* I am offended at you Chriſtians becauſe ye worſhip images; whereas the Scripture every where commands that no man ſhould make to himſelf any graven image or the likeneſs of any thing. Of the ſame accuſation *Leontius* Biſhop of *Cyprus* takes notice in his Apology againſt the Jews: and that the Jews make great noiſes with this accuſation of the Chriſtians, and put very much upon it, we may ſee in the Epiſtle of *Ludovicus Carretus*, and the Catechetical Dialogues of *Fabianus Fiogus*. * But this obſervation is very remarkable out of the Jewiſh Talmud: For in the firſt part of it which they call the *Miſna* there is not one word of declamation or reproof againſt Chriſtians in the matter of images (as hath been long ſince obſerved by learned Men:) for this was made about two hundred years after Chriſt, in all which time the Chriſtians did hate images as much as the Jews did. But in the *Gemara Babylonicum* which is the ſecond part of the *Talmud* that is of authority amongſt them, which was finiſhed about five hundred years after Chriſt, at which time alſo images began to be receiv'd in Churches: there and in all the Commentaries of the Rabbins publiſhed in the tenth or eleventh age, the Jews call the Chriſtian Churches בית עבודה זרה Beth havoda zara *The houſe of idolatry*: and it will be impoſſible that ever they can become Chriſtians ſo long as they ſee images worſhipped in our Churches: and the ſecond Commandement left out of the Catechiſmes of thoſe with whom eſpecially they doe converſe.

Syn. 7. Act. 5.

38. That which I am to ſay concerning Heathens is this: That it is impoſſible that thoſe Chriſtians who worſhip images of God ſhould diſtinguiſh their manner of worſhipping the true God from the manner by which the Heathens worſhipped their Gods. For they did not ſuppoſe their images to be Gods, and therefore they would laugh at the Chriſtians if they had nothing elſe to ſay againſt them but that God is not a ſtone, or Mettal poliſhed by the Ingravers tool. Thus *Arnobius* brings in the Gentiles ſpeaking, *Neque nos æra, neque auri argentique materias quibus ſigna confiunt, Deos eſſe & religioſa decernimus eſſe Numina, ſed eos ipſos in his colimus, quos dedicatio infert ſacra, &c.* we doe not think the gold, or the braſs, or the ſilver, of which we make

our images to be Gods: but in theſe images we worſhip them.

Hoc Deus eſt quod imago docet, ſed non Deus ipſa,
Hoc videas, ſed mente colas quod cernis in ipſa.

The image is not God, but repreſents him: your eye upon the image and your mind upon God. *Quis enim alius eſt niſi ſi ſit planè fatuus, qui hæc Deos eſſe putet, non autem Deorum donaria & ſimulachra:* None but fools (ſaid *Celſus*) will call them Gods, which are but images of the Gods: and it is very pertinent which *Lucian* told the Matron, who took it ill that ſhe was complemented too high and compar'd in beauty to the Goddeſſes; "I never did (ſaies "he) Fair Lady, compare you to the Goddeſſes, but with their images made "by the beſt workmen of ſtone, or braſs, or ivory. And I doe not think it "impious to compare things with men, if thoſe things are made by Men, un- "leſs you will ſuppoſe that *Phidias* made *Minerva*, or that to be the Heaven- "ly *Venus* which a great many yeers agoe *Praxiteles* made at *Cnidus*. But "take heed, for it is an undecent thing to think ſuch things of the Gods, "whoſe true repreſentations (as I ſuppoſe) no Humane induſtry can make. The ſame is to be ſeen in *Athenagoras*[a], in *Arnobius*[b], in *Lactantius*[c], S. *Auſtin*[d], and divers others. *Signa ad Junonis ſoſpitæ cruore manavere*, Said *Livy*[e]; The ſigns (meaning the images in *Juno*'s Temple) did drop bloud: and *Clemens Romanus*[f] brings in the Heathens ſaying, "*We worſhip viſible images to* "*the Honour of the inviſible God*; and they could ſometimes laugh at their Gods whom their Prieſts expos'd to worſhip, and yet themſelves knew them to have been a plum-tree.

Origen. 7 contra Cel. & Lucian. pro imagin.

[a] Legat. pro Chriſtian.
[b] L. 6. adv. Gentes.
[c] L. 2. div. inſt. c. 2. in init.
[d] De civit. Dei l. 8. c. 23. & in Pſal. 113. conc. 2. & l. 3. de doctr. Chriſt.
[e] Dec. 3. l. 3.
[f] Recog. l. 5.

Olim truncus eram ficulnus, inutile lignum,
Cùm faber incertus, ſcamnum facerétne Priapum
Maluit eſſe Deum: Deus indè ego furum, aviúmque
Maxima formido——.——

It was a great queſtion amongſt the Carpenters whether this wood ſhould be a God or a ſtool: now they that talk'd thus, knew what that was which their Myſtick perſons call'd a God: they were ſure they could be but images of them. So that theſe Chriſtians who worſhip God by an image, although they otherwiſe ſin againſt the firſt Commandement then Heathens doe, who worſhip falſe Gods; yet they ſin equally againſt the ſecond Commandement, and by images tranſmit worſhip to their God reſpectively. I doe not doubt but the ruder among the Heathens did ſuppoſe the very image to be their God, or that their God did dwell in their Temple, and in their image, or that a Divine power was communicated to it;

Lucil.

Ut pueri infantes credunt ſigna omnia ahena
Vivère, & eſſe homines, & ſic iſti omnia ficta
Vera putant: credunt ſignis cor eſſe in ahenis.

for ſome are ſuch very children as to think the woodden Poppet to be a woodman: and therefore when the Prophets diſcourſed againſt them in the matter of images they called them wood and ſtone, Gold and Silver, and repreſented the folly of putting truſt in things that had no life, which themſelves plac'd there, which Cats did ſit upon and birds build their neſts in: but either by theſe arguments they did reprove thoſe fools amongſt them who did ſuppoſe them to be Gods indeed (who alſo ſinn'd directly againſt the firſt Commandement, and committed idolatry in the object of their worſhip) or thoſe better Spirits and wiſer heads among them, who though they derided that folly, yet they put their truſt in the images, as ſuppoſing them inveſted with power from their God, and that by them he would doe them benefit.

3. Now

3. Now how far differing this is from the practice of Chriſtians in ſome times and places, we may gueſs by the complaints made by learned men, particularly by *Caſſander*, and *Polydore Virgil*, and *Heſſelius* the *Regius Profeſſor* at *Lovain*; but without the aid of their teſtimony, it is plain by their publick and authoriz'd treatment of their images, they conſecrate their images, they hope in them, they expect gifts and graces from them, they clothe them and crown them, they erect Altars and Temples to them, they kiſs them and bow their head and knee before them, they light up tapers and lamps to them, which is a direct conſumptive ſacrifice, *& reliquam obſervationem circà eas ſimiliter ut gentes faciunt*; they doe to their images as the Heathens doe to theirs; they are the words of *Irenæus* by which he reproves the folly of ſome that had got the pictures of *Chriſt* and *Pythagoras* and other eminent perſons: but that which is moſt to be reproved and can be leſs excus'd is their prayers and forms of dedicating their golden or woodden images; "*Sanctifie ô God this form of the B. Virgin, that it may bring ſaving help to thy faithful people, that thunders and lightnings may be driven away the ſooner, that immoderate rains or flouds, and civil warrs or the invaſion of Heathens may at the preſence of this be ſuppreſſed.* As bad or worſe are in the Pontifical in the dedication of an image of the Croſs, and of S. *John*, and at the hallowing the *Agnus Dei.* Now theſe things are as bad as can be; and yet done to images (I doe not doubt) for their ſakes whom they repreſent; but yet with ſome regard to the image it ſelf, for ſo they valew our Lady of *Hales*, our Lady of *Walſingham*, of *Loretto*, of *Sichem*, *Aſpricollis*, *Prurietana*, *Ardilleriana*, more then our Lady of *Noſtredame*, or *Florence*, or S. *Denis.* Now when the relatives of one terme do differ, it is for themſelves that the difference is, not for the correlative which is ſtill the ſame: and here for the common people to diſcern the niceties and the intricate nothings that their learned Men have devis'd to put a Vizor upon this folly; is ſo impoſſible that it will not be eaſie to make them underſtand the termes though a learned man were by them at every cringe they make. They cannot tell whether the worſhip be to the image or the exemplar; which is prime and which is ſecondary; they cannot diſtinguiſh of *Latria*, and *dulia*, and *Hyperdulia*, nor can they skill in proper or improper worſhip, mediate and immediate, univocal, equivocal, and analogical, nor ſay how much is for this, and how much for that, or which is ſimple and which is allayed, which is abſolute and which is reductive. And although men in the Schools, and when they have nothing to doe but to make diſtinctions which no body can underſtand, can ſeparate word from word, form from matter, real from notional, the ſhadow from the body, a dream from a viſion, the skin from the fleſh, and the fleſh from the bone, yet when they come to action and clothe their theoremes with a body of circumſtances, he that attends the preſent buſineſs of devotion and deſire, will not find himſelf able or at leaſure then to diſtinguiſh curiouſly; and therefore it was well ſaid of *Heſſelius* of *Lovain*; *Images were brought into uſe for the ſake of the Laity, and now for their ſakes they are to be remov'd again, leſt they give divine worſhip to the image, or fall into the hereſie of the Anthropomorphites*; (he might have added) or leſt by worſhipping God by an image they commit the ſin of ſuperſtition and idolatry, breaking the ſecond Commandement. For the ſame folly which in the Heathens was reprov'd by the Primitive Chriſtians, the ſame is done now adayes by Chriſtians to their images. I ſhall conclude this with a ſtory out of an Italian who wrote commentaries of the affairs of *India*: when the poor Barbarians of *Nova Hiſpania* in the Kingdome of *Mexico* had one day of a ſudden found their idols taken

Contult. loc. de imagin. De invent. rer. In Decal. part. 1. c. 66.

Pontific. Rom. Vid. Miſſal. Rom. ſub tit. De ritu ſervan.

Pietro Martire Hiſt. delle Ind. l. 10. c. 11.

down and broken, they ſent four principal perſons of their country to *Alfonſus Zuaſus* the licentiate who had commanded it; they complaining of the injury ſuppos'd alſo, and told him, they did beleeve it to be done without his conſent or knowledge, as knowing that the Chriſtians had idols and images of their own, whom they valued, and ador'd and worſhip'd: and looking up and eſpying the image of S. *Sebaſtian* whom *Alfonſus* had in great veneration hanging by his bed ſide, they pointed at him with their finger ſaying, the ſame regard which he had to the image of S. *Sebaſtian*, the ſame they had to theirs. The Governour being troubled with this quick and not barbarous diſcourſe; turn'd him about a little, and at laſt told them, that the Chriſtians did not worſhip images for their own ſakes, but as they repreſented holy perſons dwelling in heavenly places: and to demonſtrate that, took down the image of S. *Sebaſtian*, and broke it in pieces. They replyed that it was juſt ſo with them; and that they were not ſo ſtupid to worſhip the images for their own regards; but as they repreſented the Sun and Moon and all the lights of heaven. *Alfonſus* being yet more troubled, was forc'd to change the ſtate of the queſtion: by ſaying that the object was differing though the manner was not, that the Chriſtians did by their images paſs honour to the great Creator of the world, but they did it to creatures, to evil Spirits, and falſe Gods: which was indeed very true, but it was a removing the queſtion from the ſecond Commandement to the firſt: For although in relation to the firſt the Heathens have the worſt of it; yet as to the ſecond theſe Chriſtians and the poor Indians were equal: and the wit of man cannot tell how they differ.

40. But I ſhall adde this, that though it be impoſſible to know how the worſhip of God by an image ſhould come into the world; unleſs it be as *Tertullian* ſaid of the very art of making images, that it came from the Divel; yet it is obſervable that it never prevail'd any where but in a degenerating people. The Jews at firſt were pure worſhippers of the God of their Fathers, but at any time when Sathan ſtood at their right hand and made Iſrael to ſin, then they would play the fool with images. In the pureſt times of Chriſtianity they kept themſelves clean from images; but as they grew worſe, ſo they brought in Superſtition, and worſhip of images, and ſo it was amongſt the Heathens too. While they kept themſelves to the principles of their inſtitution and tradition which they had from the Patriarchs of Nations who had been taught by God, and liv'd according to Nature; they worſhipped God ſimply and purely.

Si Deus eſt animus——
Hic tibi præcipuè pura ſit mente colendus.

a pure and immaterial ſubſtance is diſhonour'd by any worſhip but that of a pure and a holy mind; and the ancienteſt Romans for 170 yeers together worſhip'd without an image, ſaid *Varro*; who addes this judgement of his own, *quod ſi adhuc manſiſſet caſtius Dii obſervarentur*: if the ſame had been ſtill obſerved; the Gods had been more purely, more *chaſtly* worſhipped. The word which *Varro* uſes is very proper and according to the ſtile of Scripture which calls idolatrous worſhippings by the name of *fornication*. But *Varro* addes this reaſon. *Qui primi ſimulachra Deorum populis poſuerunt eos civitatibus ſuis & metum dempſiſſe, & errorem addidiſſe.* The introduction of images brought in error and caſt out fear,

Stultè verebor ipſe cum faciam Deos.

if I worſhip what I make, I will not fear what I worſhip. Well and wiſely did he ſuppoſe (ſaid S. *Auſtin*) that the greatneſs of their Gods might ſoon become deſpica-

deſpicable by the fooliſhneſs of images: and it might reaſonably prevail againſt the old ſuperſtition, to ſuppoſe that he who governed all the world ought to be worſhipped without an image. The ſame teſtimony we have in *Plutarch* in the life of *Numa*. *The Gods had houſes and cells but no images, as ſuppoſing it to be impious to expreſs the greateſt things by the baſeſt; and knowing that there is no other way of coming to God but by the mind.*

41. From hence I inferre that neither God nor Nature, neither reaſon nor religion brought images into the worſhip of God; but it was the invention of ſuperſtitious men, or rather of the enemy of Mankind that he might draw the heart of man from contemplation of the inviſible and depreſs it to low phantaſmes and ſenſible adherences, to diminiſh the fear of God, and to produce confidencies in dead ſubſtances cloth'd with accidents of art; to amuſe the fooliſh, and to entertain the weakeſt part of him that is wiſer, and that religion might be capable of tricks and illuſions which could not happen to immaterial and Spiritual worſhippings. But that all the reaſon of the world is againſt it; may be the rather preſum'd becauſe although the patrons of images offer at ſome reaſons for the uſe of images in ſtory and ornament and inſtruction; yet no man pretends to any reaſonableneſs of worſhipping God by an image, or giving Gods due to an image: Some of them ſay that the ſame worſhip paſſes from the image unto God, and therefore it is lawful, and God is not diſhonoured: but upon no reaſonable account can it be ſaid, that therefore it is good, that it pleaſes God, that it promotes his honour, that it is without danger; and however any man may intend to paſs the relative honour that way, yet no man hath any warrant that God will accept it, or that he will endure it, that way; that he will receive his ſacrifices moſt readily when they are firſt waſh'd (ſhall I call it? or foul'd) in the *Borborus*, by the pollutions and abhominations of images: for that they are called ſo in Scripture is evident; but they are never commended there, not one good word of them is there recorded: but of the worſhip of them nothing but prohibition and execration and foul appellatives. There is no neceſſity of it, no advantage by it, no man is help'd by it, no command, no licence, no promiſe, no Scripture for it; all the religions that ever God did inſtitute are expreſsly againſt it, and to ſumme up all, it is againſt the law of Nature: of which I need no other witneſſes but the teſtimony of all thoſe wiſe perſonages who affirme the two Tables of *Moſes* to be moral in every precept excepting that of the Sabbath, and to be of the law of Nature. So *Irenæus* expreſsly: So *Tertullian*, S. *Cyprian*, *Origen*, S. *Auguſtine*, and generally all antiquity. The ſumme of all I expreſs in the words of S. *Paul*, ὁ Θεὸς ὁ ποιήσας κόσμον ἐκ ὑπὸ χεῖρῶν ἀνθρώπων θεραπεύεται. *God is not worſhipped with mens hands*, that is, with the productions of art and imagination.

L. 4. c. 31, 32. de idolatr. L. 3. ad Quirin. c. 59. & c. 1. de exhort. Marty. Origen. hom. 8. in Ex. l. 15. contr. Fauſt. c. 4. & 7.

42. I conclude that the ſecond Commandement is a Moral and Natural precept in the whole body and conſtitution of it; if the firſt words of it be relative to the laſt; that is, if the prohibition of making images be underſtood ſo as to include an order to their worſhip: but if theſe words be made to be a diſtinct period; then that period was onely obligatory to the Jews: and to Chriſtians in equal danger, and under the ſame reaſon; and therefore can alſo paſs away with the reaſon which was but temporary, tranſient and accidental: all the reſt retaining their prime, Natural, and eſſential obligation.

Of the Jewiſh Sabbath, and the Lords day.

43. There is one inſtance more in which the Rule is more apparently verified; which I mention'd a little above: and that is the precept of the Sabbath: which God inſtituted for many reaſons. 1. To be a perpetual memorial of the Creation, and that God might be glorified in the works of his hands by the religion of that day. 2. To preſerve the memory of their deliverance from the captivity of *Egypt*, *Deuter.* 5. 14. and upon the ſame account to doe eaſe and remiſſion τοῖς δούλοις λογικοῖς καὶ ἀλόγοις to ſervants reaſonable and unreaſonable. *R. Moſes Ben Maimon* in his *Moreh Nebochim* affirmes that the end of the Sabbath is, *Septimam vitæ partem homini præſtare liberam, & vacuam à labore & defatigatione, tum conſervare & confirmare memoriam, & fidem Creationis Mundi*, that we ſhould ſpend the ſeventh part of our life in eaſe and reſt; and preſerve the faith and memory of the Article of the worlds creation,

L. 3. c. 43.

Homer.

Ἑβδόμῃ νῦμαρ ἦλθε καὶ τῷ πεπάλεκτο ἅπαντα.

becauſe upon the ſeventh day all things were finiſh'd: and therefore according to that of *Linus* cited by *Euſebius*,

Ἑβδόμη εἰν ἀγαθοῖς, καὶ ἑβδόμη ἔξοχα τελεῖται,
Ἑβδόμη ὅτι πρῶτόν ποτε, καὶ ἑβδόμη ἔξοχα τέλειον.

The ſeventh day is the day of the worlds Nativity, or the feaſt of its birth, it is the chiefeſt and moſt perfect of dayes. 3. S. *Auſtin* hath another fancy; and he intends to offer at no higher rate: *Dici probabiliter poteſt, obſervandum Sabbathum Judæis fuiſſe præceptum in umbra futuri quæ ſpiritualem requiem figuraret, quam Deus exemplo hujus quietis ſuæ fidelibus bona opera facientibus arcanâ ſignificatione pollicebatur.* It may be ſaid probably that the precept of the Sabbath to the Jews was a type and ſhadow of that Spiritual reſt which God by his example did by a ſecret ſignification promiſe to the faithful that did good works. I acknowledge that there is a fair proportion in the ſign and in the thing ſignified; but whether this was ſo intended by God, or ſo underſtood by the Jewes is but *probabiliter dictum*, a probable conjecture taken onely from the Natural ſimilitude of the things.

S. Aug. l. 4. de Genes. ad lit. c. 11.

44. But allowing this: the conſequent of all will be; that what was for temporary reaſons eſtabliſhed cannot paſs an eternal obligation. Concerning which it is to be obſerved that thoſe are to be called *temporary* or *tranſient reaſons*, not onely when the thing ceaſes to have a being; ſuch as thoſe laws which were to ſeparate the Jews from the Gentiles, and thoſe which related to the tabernacle, or the land of their dwelling, or the manner of their ſacrifice, or their addreſſes to their chief city; for theſe ceaſe by ſubtraction of the matter and the natural abolition of the material cauſe; becauſe the wall of partition is taken down; and the law of Ceremonies is aboliſhed, and the people are exterminated from their Country, and their ſacrifices are ceas'd, and their City is deſtroyed, and their temple burnt: but that reaſon alſo is *tranſient* and *temporal*, which in a like inſtance paſſes into a greater of the ſame kind. Thus the deliverance of Iſrael from the Egyptian bondage, though being a matter of fact it is eternally true that it was once done, yet it is a temporary tranſient reaſon becauſe all Gods people now rejoice in a greater deliverance and from a bondage that was infinitely worſe; from the ſlavery of ſin, and the powers of Hell.

Hell. And thus alſo the great reaſon of the Sabbath, I mean Gods reſt from the works of the Creation is a temporary tranſient reaſon; becauſe there is now a new Creation; *vetera tranſierunt*, old things are paſs'd away and all things are become new; and the Goſpel is νέα κλίσις a new Creation, and our Natures are regenerate and reform'd and made with new principles of a new life to higher ends then before; and therefore though the work of Gods creation is to be remembred and God to be glorified by us in his works, yet when there is a greater reaſon, the ſolemnity muſt relate to that, and the leſſer duty can be well ſerved by that day which can alſo miniſter to the greater.

45. And therefore we find that ſomething of this very reaſon is drawn into the obſervation of the Lords day, or the firſt day of the week, by *Juſtine Martyr*, τὴν τῆ ἡλίε ἡμέραν κοινῆ πάντες τὴν συνέλευσιν ποιύμεθα, ἐπειδὴ πρώτη ἔζιν ἡμέρα ἐν ᾗ ὁ Θεὸς τὸ σκότ@. καὶ τὴν ὕλην τρέψας κόσμον ἐποίησε, καὶ Ἰησοῦς χριστὸς ὁ ἡμέτερ@. σωτὴρ τῇ αὐτῇ ἡμέρᾳ ἐκ νεκρῶν ἀνέστη. We celebrate conventions or aſſemblies commonly upon the Sunday, becauſe it is the firſt day in which God ſeparated the light from the darkneſs and made the world, and on the ſame day Jeſus Chriſt our Saviour aroſe from the dead. The firſt of theſe looks more like an excuſe then a juſt reaſon; for if any thing of the Creation were made the cauſe of a Sabbath, it ought to be the end not the beginning; it ought to be the *reſt* not the firſt part of the work; it ought to be that which God aſſign'd, not which man ſhould take by way of after juſtification. Apol. 2.

46. But in the precept of the Sabbath there are two great things. One was *the reſt*, the other *the religion* of the day. The reſt was in remembrance of their deliverance from *Egypt*; and therefore they kept their firſt Sabbatick reſt upon the very day in which their redemption was completed, that is, as ſoon as ever *Pharaoh* and his hoſt were overthrown in the Red ſea; and this becauſe it was external, ritual, National, relative and temporary, abus'd by ſuperſtition, and typical of ſomething to come, without all contradiction is ſo perfectly ceremonial and conſequently abrogated, that there can be no greater wonder then to ſee ſome Chriſtians ſuch ſuperſtitious obſervers of the reſt of that day, that they equal even the greateſt follies of the Jews; who as *Munſter* out of the Rabbins obſerves, thought it unlawful to put an apple to the fire to be roaſted upon that day, and would not pour wine upon Muſtardſeed, nor take a clove of garlick from its skin and eat it, nor thought it lawful to purſue a skipping flea, nor to kill any creeping thing that had variety of ſexes, nor to climb a tree leſt they break a bough, nor by ſinging to ſtill the crying of a child, nor to play upon the harp, nor by walking on the graſs pluck up a leaf with the ſhooe. Theſe trifles as they were ſuch which even the Jew was no waies oblig'd to, ſo they are infinitely againſt Chriſtian liberty and the analogy and wiſedome of the Religion.

47. But the Jews ſay that *Enoch* and *Noah*, *Abraham* and *Jacob* kept a feſtival to God, a memorial of the Creation. If ſo, yet we find no reſt obſerved by them, nor any intermiſſion of their journeys; but it is reaſonable to beleeve that by ſome portions of their time they did ſpecially ſerve God, as well as by ſome actions of their life, and ſome portions of their eſtate: and to this it is not improbable that *Moſes* did relate when to the words in *Deuteronomy*; *Remember to keep the day of the Sabbaths to ſanctifie it* ὃν τρόπον ἐνετείλατό σοι Κύρι@. ὁ θεός σου, *according as the Lord thy God had commanded thee*, meaning, at the beginning of the world: But in this part of the precept there was nothing of reſt, but much of holineſs and proper ſanctification.

48. Now

48. Now concerning this the resolutions will be easie; That God should be serv'd and glorified by us is a part of Natural and essential religion: this cannot be done with nothing; there must be bodies, and gifts and places and time to doe it in: The Patriarchs did bind themselves or were bound by God to certain circumstances; for that which is indefinite and unlimited, shall neither be done constantly nor regularly: but since the day of the creations ending was afterwards made the rule of fixing a day, it is also probable that that also was the limit and rule for the Patriarchs religious solemnity: This indeed is denyed by S. *Irenæus* and *Tertullian* and some others, affirming that the Patriarchswho kept no Sabbath were yet pleasing to God,but because certainly it was so to the Jews, upon a reason which though it can be involv'd in a greater, yet it cannot totally be forgotten; it is more then probable that the religion of the day must never be forgotten; but God must have a portion of our time for his service, and the blessing which they were both in and before the law, to commemorate, must also by implication or else expressly be remembred.

49. Upon this or some equal account the Primitive Christians did keep the Sabbath of the Jews; not onely for their complyance with the Jews till the distinction were confess'd and notorious; but because the moral Religion which was serv'd by that day was not brought into the religion of the Lords day as yet; therefore the Christians for a long time together did keep their
Acts 15. 21. conventions upon the Sabbath, in which some portions of the law were read*:
Can. 16. and this continued till the time of the Laodicean Councel; which also took
A. D. 364. care that the reading of the Gospels should be mingled with their reading of the law: which was in a manner the first publick reasonable essay of uniting the religion of both dayes into one.

50. At first they kept both dayes with this onely difference that though they kept the Sabbath, yet it was after the Christian, that is, after the spiritual manner: in these exuberancies and flouds of religion which overflow'd their channels,one day of solemnity was not enough: but besides that they by their Sabbath meetings had entercourse with the Jews in order to their conversion, and the Jewish Christians in order to the establishment of their religion, they were glad of all occasions to glorifie God: but they did it without any opinion of essential obligation; and without the Jewish rest, and upon the account of Christian reasons. Of this custome of theirs we find testimony in
Epist. ad Mag. *Ignatius*, ἀλλ' ἕκας Θ. ἡμῶν σαββατιζέτω πνευματικῶς μελέτην νόμων χαίρων, ὐ σώμα Θ. ἀνέσι, δ'ημιυργίαν Θεῦ θαυμάζων, ὐκ ἔωλα ϗ χλιαρὰ πίνων, ϗ μεμερημνώα βαδίζων ϗ ὀρχήσι ϗ χορῶις νέων ὐκ ἔχυσι χαίρων. That was their way of observation of the Sabbath. "Let every one of us keep the "Sabbath Spiritually, delighting in the meditation of the law not in the "ease of the body, wondring at the works of God, not in indulging to deli-"cious banquets, and softer drinkings or dancings that doe not better the "Understanding. So that they kept the Sabbath not as did the Jews; who as *Munster* affirm'd suppos'd it to be a keeping of the Sabbath if they wore better clothes,or eat more meat, or drank the richest wines: Idleness and luxury, and pride are the worst ceremonies of the religion of the Sabbath: the proper imployment of that day is religion, which the Jews, and from them some of the most ancient Christians signified by [*meditation of the law.*] But then he addes; Καὶ μ τὸ σαββατίσαι ἑορταζέτω πᾶς ὁ φιλόχειςΘ. τ κυριακὴν τ ἀναστάσιμον, τ βασιλίδα, τ ὕπατον πασῶν ἡμερῶν. After they

they have kept the Sabbath let every one that loves Christ keep the day of the Lord; the day of the memorial of his resurrection; which is the Queen and the Supreme of all other daies: and without further testimony we find it affirmd in general by *Balsamo* ὡς ἀπὸ τῶν ἁγίων πατέρων ἐξισώσαντων διὰ λόγου τὰς Κυριακὰς τοῖς σαββάτοις. The Sabbath day and the Lords day were almost in all things made equal by the Holy Fathers and some of them called them *Brethren*: so *Gregory Nyssen*; some, καλῶς ἡ ζωγρὶς τὸ σάββατον τῇ Κυριακῇ, so *Asterius*, an excellent combination or yoke of the Sabbath and the Lords day: and ἡμέρας ἑορτῶν, so the Canon of the Apostles, *the feast daies* which *Zonaras* well explicates to the present Sense, but the Constitutions of S. *Clement* (which is indeed an ancient book) gives the fullest account of it; τὸ σάββατον μνήμη ἐστὶ τῆς κτίσεως ὅτι τὸ μὲν δημιουργίας ἐστὶν ὑπόμνημα ἡδὲ ἀναστάσεως. Let the Sabbath and the Lords day be kept festival; that, because it is the memorial of the Creation, this of the resurrection: and therefore whereas it is in the Commandement; sixe dayes shalt thou labour, &c. he saies, that servants are to labour but five daies: and upon this account it was in the Greek Church especially, and is to this day forbidden to fast upon the Sabbath and the Lords day.

L. 7. c. 23.

L. 5.

51. The effect of which consideration is this; that the Lords day did not succeed in the place of the Sabbath; but the Sabbath was wholly abrogated, and the Lords day was meerly of Ecclesiastical institution. It was not introduc'd by vertue of the fourth Commandement; because they for almost three hundred yeers together kept that day which was in that Commandement; but they did it also without any opinion of prime obligation, and therefore they did not suppose it moral. But there was together with the observation of the day a peece of natural religion which was consequently Moral; that is, a separation of some time for the glorification of God and the commemoration of his benefits: not that it can be reasonably thought that the assignation of a definite time can be a moral duty, or that an indefinite time can be the matter of a Commandement: and therefore I suppose it to be unreasonable to say, that although the seventh day is not moral: yet that one day is, or at least that some time be separate is moral; for that one day in seven should be separate can have no natural, essential and congenite reason, any more then one in ten, or one in six; for as it does not naturally follow that because God ceased from the Creation on the seventh day, therefore we must keep that holy-day, so neither could we have known it without revelation, and therefore what follows from hence must be by positive constitution: Now if it be said that it is moral that some time be set apart for Gods service: I say it is true, that it is necessary, naturally necessary that it be so, but this cannot be the matter of a special Commandement; because it being naturally necessary that God should be solemnly worshipped this must suppose a time to doe it in, as a natural circumstance, and needs not a Commandement; which is sufficiently and unavoidably included in the first Commandement, in which we are bound to serve God with religion. The fourth Commandement enjoin'd a definite time, but that was ceremonial and abrogated: but an indefinite time is not a duty of this Commandement, but suppos'd in that which commands us to worship God. For we may as well worship God and doe no action, as worship him in no time. The definite time here nam'd is taken away, and the indefinite time cannot be a distinct duty, but yet in imitation of the reasonableness and piety of that law, and in commemoration of a greater benefit then was there remembred, a day of

more

more ſolemne Religion was us'd by the Chriſtian Church; for as on the the Jewiſh Sabbath they remembred the Creation and their redemption from Egypt: ſo on the Lords day they commemorated the works of God, and their redemption from Sin, Hell and the Grave: but the firſt reaſon was to yeeld to the ſecond; as the light of a leſſer ſtar falls into the glories of the Sun, and though it be there yet it makes no ſhow, becauſe a bigger beauty fills up all the corners of the eyes and admiration: and now the Lords day hath taken into it ſelf all the Religion but not the Reſt of the Sabbath; that is, it is a day of ſolemn worſhipping of God and of remembring his bleſſings, but not of reſt ſave onely as a vacancy from other things is neceſſary for our obſervation of this: becauſe as the Italians ſay, *Io non pua cantare & portare la Croce*, I cannot ſing and carry the Croſs too; a man cannot at once attend to two things of contrary obſervation.

52. That we are free from the obſervation of the Sabbath S. *Paul* expreſsly affirmes; adding this reaſon, feaſts, new moons, and Sabbath daies, and
Coloſſ. 2. 16. meats and drinks are but *the ſhadow of things to come, but the body is of Chriſt*: Where by the way let it be obſerv'd that upon the occaſion of this and ſome other like expreſſions the Chriſtians have ſuppos'd that all the rites of *Moſes* were types and figures of ſomething in Chriſtianity, and *that ſome myſtery of ours muſt correſpond to ſome rite of theirs:* this fancy makes ſome impertinencies in the diſcourſes of wiſe men, and amuſes and entertains the Underſtandings of many with little images of things which were never intended, and hath too often a very great influence into doctrines: whereas here the word σκιὰ τῶν μελλόντων [The ſhadow of things to come] means, a ſhadow in reſpect of the things to come, that is, if theſe rituals be compared to the τὰ μέλλοντα, thoſe things which were to come, they are but very ſhadows, and nothings: σκιὰ or ſhadow ſignifies not in relation but in oppoſition to *Corpus*. *The ſhadow*, that is, a religion conſiſting but in rituals and exterior ſolemnities; but Chriſtianity is *the body*, that is, that durable, permanent, true and ſubſtantial religion which is fit for all men, and to abide for all ages: And therefore *Heſychius* by *Corpus Chriſti* in this place underſtands the word of *doctrine*; that is, a religion which conſiſts in wiſe notions, ἐν ἀληθείᾳ in truth, not in external rituals that ſignified nothing of themſelves, but ſomething by inſtitution. Others by [*the body of Chriſt*] here, underſtand *the Chriſtian Church*: in which ſenſe the word is us'd
1 Cor. 12. 27. by S. *Paul* to the Corinthians; and in this very place it means ſo if the words be read as ſome Greek copies doe, that is, with conjunction and reference to the next verſe: τὸ δὲ σῶμα τοῦ χριστοῦ μηδεὶς ὑμᾶς καταβραβευέτω, &c. *Let no man make a gain of you who are the body of Chriſt.* However that S. *Paul* affirms the cuſtoms of the Pythagoreans in abſtinence from fleſh and wine; and of the Jews in their feaſts and Sabbaths to be no fit matters in which men are to be judg'd, that is, for the not obſerving of which they are to be condemned, but to be ſhadows and umbrages, not ſubſtantial parts of religion, is evident by the antitheſis however it be underſtood: but in order to other purpoſes I obſerved here that he does not mean they are *types* and figures; for the Pythagorean vanities did never pretend to this, but they and the other too are but ſhadows, empty and unprofitable in reſpect of the religion which Chriſt brought into the world. They were ineffective and inſignificative; but onely preſent Entertainments of their obedience, and divertiſements and fixings of their thoughts apt to wander to the Gentile Cuſtomes; but nothing of Natural religion.

53. Now

53. Now although the primitive Chriſtians did alſo meet publikely upon the Jewiſh Sabbaths, yet that they did it not by vertue of the fourth Commandement appears becauſe they affirm'd it to be ceremonial and no part of the Moral law, as is to be ſeen in *Irenæus*, *Tertullian*, *Origen*, *S. Cyprian* and others before quoted: numb. 41. And in the Councel of *Laodicea* the obſervation of the Jewiſh Sabbath which till that time had continued amongſt Chriſtians was expreſsly forbidden: *Non oportet Chriſtianos Judaizare & in Sabbato vacare, ſed operari eos in eadem die, Dominicam præponendo eidem diei. Si hoc eis placet, vacent tanquam Chriſtiani, Quòd ſi inventi fuerint Judaizare, anathema ſint.* Chriſtians muſt not keep the reſt of the Sabbath, but work upon that day, preferring the Lords day before it. If they will reſt on that day let them reſt as Chriſtians; but if they reſt as Jews let them be accurſed: that is, if they will keep the day holy, let them ſanctifie it as Chriſtians ſhould ſanctifie their day, that is, onely with ſuch a reſt as miniſters to the opportunities of religion, not ſo as to make the reſt to be the religion of the day. Can. 29.

54. The Jewiſh Sabbath being abrogated; the Chriſtian liberty like the Sun after the diſperſion of the clouds appear'd in its full ſplendor; and then the diviſion of dayes ceas'd, and one day was not more holy then another, as S. *Paul* diſputes in his epiſtle to the *Galatians*, and from him S. *Hierom*; and when S. *Paul* reprov'd the *Corinthians* for going to law before the unbeleevers, who kept their Court dayes upon the firſt day of the week, he would not have omitted to reprove them by ſo great and weighty a circumſtance as the prophaning the Lords day; in caſe it had been then a Holy day, either of Divine or Apoſtolical inſtitution: for when afterward it grew into an Eccleſiaſtical law, and either by law or cuſtome was obſerved together with the Jewiſh Sabbath, *Conſtantine* made a favourable edict that the Chriſtians ſhould not be impleaded on thoſe two feſtivals. Of which I onely make uſe to this purpoſe, that among the Gentiles theſe were law-daies; and therefore the Corinthians muſt needs have been prophaners of that day by their law-ſuits, and therefore have been upon that account obnoxious to the Apoſtolical rod; if the day had then in any ſenſe of authority been eſteemed holy. Gal. 4. 10. In hunc locum. Apud Euſeb.

55. But although there was no holineſs in any day; yet they thought it fit to remember the great bleſſings of God which were done upon certain dayes. An action cannot be ſeparated from time; it muſt be done ſome day or other, and moſt properly upon the Anniverſary, or the monethly, or weekly minds, but yet this they did with ſo great indifferency of obſervation, that it cannot look leſs then that there was a providence in it. For although all the Chriſtian Church that kept the Sunday feſtival, did it and profeſs'd to doe it in remembrance of the Reſurrection of our Lord, yet that the day of its memory was not more holy then any day, and was not of neceſſary obſervation; it appears by the Eaſterne Churches and all the Diſciples of S. *John* who kept the feaſt of the Reſurrection of our Lord, I mean the Anniverſary, the Great, the prime feaſt, and that which was the meaſure of all the reſt, not upon that day of the week on which Chriſt did riſe, but on the day of the full Moon, when ever it ſhould happen. Now this muſt needs be a demonſtration, that the day of the reſurrection was not holy by Divine or Apoſtolical inſtitution: The memory of the bleſſing was to be eternal; and though the returning day was the fitteſt circumſtance, yet that was without obligation; for if the principal was mutable, then the leſs principal could not be fix'd, and this was well obſerved by S. *Auſtin*; *Hoc in iis culpat Apoſtolus, & in omnibus qui ſerviunt Crea-* Contr. Adam. Man. c. 16.

Creaturæ potius quàm Creatori. Nam nos quoque & Dominicam diem & Paſcha ſolenniter celebramus; ſed quia intelligimus quò pertineant, non tempora obſervamus, ſed quæ illis ſignificantur temporibus. He firſt eſteemed it to be a ſerving "the Creature more then the Creator to obſerve any day as of divine inſtitu-"tion; but then if it be objected that we alſo obſerve the Lords day and "the feaſt of Eaſter; he anſwers, It is not the day we keep, but we re-"member the things done upon that day. For the day is indifferent, and
Iſai. 66. 23. hath no obligation. God himſelf declar'd his diſlike of the Religion or difference of daies, by an Evangelical Prophet: and what God the Father did then ſufficiently declare, his Holy Son finiſhed upon the Croſs; and his Apoſtles publiſhed in their Sermons: onely *ſuch dayes are better circumſtanc'd, but not better daies.* The ſame is affirm'd by S. *Hierome* upon the fourth chapter to the Galatians.

56. But now that we are under no Divine law or Apoſtolical Canon, concerning the Lords day; we may with the more ſafety inquire concerning the Religion with which it was accidentally inveſted. S. *Cyprian* and S. *Auſtin* ſuppoſe that becauſe Circumciſion was commanded to be on the eighth day, it did typically repreſent the Lords day, which is the eighth from the Creation: The Councel of *Foro-Julium* ſaith, that *Iſaiah* prophecyed of this day; and that the Jewiſh Sabbath was the type of this day, was the doctrine of the Fathers in the Councel of *Matiſcon. This is the day which the Lord hath made*; ſaid the Pſalmiſt, as he is expounded by *Arnobius* and divers others: *Exultemus & lætemur in eo, qui à lumine vero noſtras tenebras fugaturus illuxit; nos ergo conſtituamus diem Dominicam in frequentationibus uſque ad cornua altaris.* "Let us rejoice and be glad in it, becauſe the Sun of righteouſneſs diſperſing "the clouds of darkneſs hath on this day ſhin'd upon us: Let us therefore keep "the Lords day in ſolemn aſſemblies even unto the hornes of the altar. Upon this day Chriſt finiſh'd the work of our redemption which was greater then the ceſſation from creating the world; on this day he roſe again for our juſtification, and therefore this is called by S. *Ignatius The Queen of daies*; upon this day Chriſt twice appear'd to his Apoſtles after the reſurrection; upon this
1 Cor. 16. 2. day S. *Paul* appointed the collection for the poor, and conſequently enjoin'd or ſuppos'd the aſſemblies to be upon this day: upon this day the Holy Ghoſt deſcended upon the Apoſtles; and on this day S. *Peter* preach'd that operative
Apoc. 1. 10. Sermon which won three thouſand Souls to the Religion: on this day S. *John* was in extaſie and ſaw ſtrange revelations: ſo that it is true what *Juſtin Martyr* ſaid, *Our B. Lord himſelf changed this day*; that is, by annulling the Sabbath and by his reſurrection and excellent appearances and illuſtrations upon that day; not by precept, but by indigitation and remarking that day by ſignal actions and an heap of bleſſings; ſo that it is no wonder that S. *Cyprian* and S. *Leo*, S. *Ignatius* and S. *Auſtin*, the *Councels of Laodicea, Matiſcon* and *Foro-Julium*, of *Paleſtine* and *Paris* ſpeak ſo much of the advantages and prerogatives of this day, the celebration of which was ſo early in the Chriſtian Church that it was, though without neceſſary obligation, or a law, obſerved in all ages and in all Churches. It is true that *Socrates* ſaid; σκοπὸς μὲν ἦν γένοντο τοῖς ἀποστόλοις ὲ περὶ ἡμερῶν ἑορταστικῶν νομοθετεῖν; *It was the purpoſe of the Apoſtles to make no laws concerning Feſtival dayes:* but it is alſo very probable what one ſaid; that it deſcends from Apoſtolical inſtitution, *Servatâ tamen libertate Chriſtianâ*, that is, the Apoſtles did upon the Lords day often meet, break bread, and celebrate the memory of Chriſt; and by their practice recommended the day as

Ep. 59. ad Fid. Ep. 119. ad Januar. Can. 15. Can. 1. In Pſal. 118.

the

the moſt fitted for their *Synaxes* or Conventions; but they made no law, impoſed no neceſſity, but left the Church to her Chriſtian Liberty, and yet (that I may uſe the words of the Fathers in the Councel of *Matiſcon*) *juſtum eſt ut hanc diem celebremus per quam facti ſumus quod non fuimus.* It is fit we celebrate this day becauſe of the bleſſing of the reſurrection happening on this day by which we became that which before we were not.

Queſt.

AND now if it be inquired how we are to celebrate this day?

57. I anſwer; That we are ſufficiently inſtructed by thoſe words of the *Laodicean Councel*; *vacent tanquam Chriſtiani*: there is a certain rule and meaſure by which Chriſtians keep their Feſtivals. The Jewiſh manner was a perfect reſt: The Chriſtian manner is an excellent religion and devotion; but no reſt excepting ſuch a reſt as miniſters to religion: Abſtinence from ſuch works, which if we attend to, we cannot attend to the religion that is commanded, is eſſentially neceſſary, when the keeping of the day religiouſly and ſolemnly becomes neceſſary. There are alſo ſome corporal works which are proper celebrations of the day, or permitted in all religions upon their Feſtivals: ſuch as are acts of publike or private benefit: works of neceſſity, little things, and unavoidable; which are ſometimes expreſs'd in this verſe,

Parva, neceſſarium, res publica, res pia fratri.

Among the old Romans in their moſt ſolemn feſtivals ſome things were ſpecially permitted,

Quippe etiam feſtis quædam exercere diebus
Fas & jura ſinunt: rivos deducere nulla
Religio vetuit, ſegeti prætendere ſepem,
Inſidias avibus moliri, incendere vepres,
Balantúmque gregem fluvio merſare ſalubri. Macrob.

It was lawful to turn the water leſt it might do miſchief, or that it might doe good; to ſtop a gap in a hedge, to prevent a treſpaſs, to lay ſnares for birds, to water the cattel, to burne weeds: and no religion forbids things of this Nature.

58. But beſides the laws and practices of Heathens in the Natural religion and obſervation of feſtivals; we may be inſtructed by the ſame religion amongſt the Jews and Chriſtians: Reading and meditating the law was the religion of the Jews upon their feaſts and Sabbaths: *Moſes of old hath them that preach him in every city being read in the Synagogues every Sabbath day*; ſaid S. *James*. "They met εἰς ἱερὰς πύπους, as *Philo* calls their Synagogues, and they "heard *Moſes* and the Prophets read and expounded: there they did all the "actions of Natural religion; there they taught piety and holineſs, juſtice "and government, Oeconomical and Political affairs; and the meaſures of "things good and bad and indifferent; and though in their Synagogues the expoſition and meditation of the law was their principal imployment; yet in their Tabernacle and in their Temple which were their places of worſhip, they offer'd ſacrifice and ſang hymnes and praiſes and glorifications of God. This was the duty and the Religion of their Sabbath; not as it was a ſpecial ſeparate feaſt; but becauſe this was the imployment fitted for all ſpiritual and religious feaſts whatſoever.

Act. 15. 21. V. Act. 13. 27. 14. 27. 44. Luk. 4. 16. 31. & 13. 10.

Sancta dies oritur, linguíſque animíſque favete,
Hoc dicenda bono ſunt bona verba die.

All holy dayes are dayes design'd for holy offices, for the celebration of the Divine name and the Divine Attributes; for charitable and holy discourses. That rest which God superadded, being onely commemorative of their deliverance from the Egyptian servitude, was not moral, nor perpetual; it could be dispensed with at the Command of a Prophet; it was dispens'd with at the Command of *Joshuah*, it was broken at the siege of *Jericho*, it alwaies yeelded when it clash'd with the duty of any other Commandement; it was not observ'd by the Priests in the Temple, nor in the stalls by the Herdsman, nor in the house by the *major domo*; but they did lead the oxe to water, and circumcis'd a Son; that is, it yeelded to charity and to religion, not onely to a moral duty but to a Ceremonial; and therefore could not oblige us: But that which remain'd was imitable, the natural religion which was us'd upon the Jewish festivals was fit also for the Holy dayes of Christians.

59. And this also plainly was the practice of the Christians, and bound upon them by the command of their Superiors. 1. It was not σαμβατικὸς ἀνὴρ Ep. ad Magn. as S. *Ignatius* expresly affirmes; the rest of the body is no essential duty of the Christian festivals: that was a Judaical rite; but the Christian is bound to labour, even upon that day; saies that holy Martyr: for then there had been no positive inhibition. And the Primitive Christians did all manner of works upon the Lords day; even in the times of persecution when they are the strictest observers of all the Divine Commandements: but in this they knew there was none: and therefore when *Constantine* the Emperor had made an edict against working upon the Lords day; yet he excepts and still permitted all agriculture or labours of the Husbandman whatsoever: for *God regardeth not outward cessation from works more upon one day then another*, as S. *Epiphanius* disputes well against the *Ebionites* and *Manichees*. L. omnes c. de feriis.

60. Thus far was well enough when the Question was concerning the sense and extent of a Divine Commandement; labour is a Natural duty, but to sit still or not to labour upon a whole day is no where by God bound upon Christians.

61. 2. It was not ἀνὴρ σαμβατικὸς, but it is μελέτη νόμου, and δημιουργίαν Θεοῦ Ibidem. θαυμάζων, so the same Father: The meditation and exercise of the word of God, and admiring the works of God, that was the work of Christian festivals: and that they might attend this, they were commanded to abstain from servile works more or less, these or others respectively in several times and Apol. 2. places. This we find in *Justin Martyr* speaking of the Christian Sabbath and "*Synaxes*; the Citizens and Countrymen are assembled together, and first "are read the Scriptures of the Prophets and Apostles; then the Priest or "President makes a Sermon or exhortation to them to practice what they "heard read, then all goe to prayers, after this they receive the Holy Eucha- "rist, then they give almes to the poor. This is the manner of the Christian festivity. Now what cessation from the secular workes is necessary in order to the actions of religion; all that we may suppose to be accidentally the duty also of the day. To this purpose is that saying of S. *Gregory*; *Dominico* L. 11. ep. 3. *die á labore terreno cessandum est, atque omni modo orationibus insistendum, ut si quid negligentiæ per sex dies agitur per Diem resurrectionis Dominicæ precibus expietur.* On the Lords day we must cease from worldly labour, and by all "means persevere in prayer: that whatsoever in the six dayes was done amiss "may be expiated by the prayers of the seventh, the day of the Lords re- "surrection

"rection. In the Synod at *Tours* in *France*; the Religion of this day was also strictly injoin'd. *Oportet Christianos in laude Dei & gratiarum actione usque ad vesperam perseverare.* Christians must persevere in praising God and giving thanks to his holy Name untill the Evening: that is, untill the Evening song be finished, for then the Ecclesiastical solemnity is over: They who were tied to this long office, could less be permitted to doe any secular business, and according as the piety of the Church increased, so the prohibitions of labour were the more strict; for that which was wholly relative must increase and diminish according to the diminution or inlargement of the correspondent. *Constantine* forbad all labour but the labours of Husbandry: but affirmes the Lords day to be the fittest for dressing or setting of Vines, and sowing Corne. *Leo* and *Anthemius* Emperors forbad all publick pleasures, vexatious suites or actions, arrests, and law-daies, appearances in Courts, advocations and legal solemnities on the Lords day. The third Councel of *Orleans* permitted waggons, and horses and oxen to travel upon Sundaies, but forbad all husbandry that the men might come to Church. In an old Synod held at *Oxford* I find that on the Lords day *Conceduntur opera carrucarum & agriculturæ*; and I find the like in an old injunction of Queen *Elisabeth*, Corn may be carried on Sundaies when the Harvest is unseasonable and hazardous. In these things there was variety; sometimes more sometimes less was permitted. Sometimes fairs and markets, sometimes none: In which that which we are to rely upon is this;

L. omnes 3. Cod. de feriis. Can. 21.

1. That because it was a day of Religion; onely such things were to be attended to, which did not hinder that solemnity which was the publick religion of the day.

2. Nothing at all to be admitted which was directly an Enemy to religion, or no friend.

Of the first I have already produc'd sufficient witness. Of the second there is the less doubt, not onely because Natural reason does abhorre all irreligious actions especially upon a day of religion; but because all the pious men and lawgivers of the Christian Church have made complaints and restraints respectively of all criminal or scandalous actions upon that day. Witness S. *Ignatius* in his Epistle to the Magnesians, *Tertullian apolog. c.* 42. S. *Gregory* in his Epistle to *Augustin* Arch-bishop of *Canturbury*; and S. *Augustin* Bishop of *Hippo*, in his 64 Epistle to *Aurelius*; the 23 Canon of the Councel of *Toledo*, the edict of *Leo* and *Anthemius*, all which complain of and forbid the evil usages of the prophaner men who spend the Lords day, which by the Church of God and in imitation of God himself and in celebration of the greatest Mystery of our redemption was appointed for the solemn service of God, in riotous eating and immoderate drinkings, vain feastings, and wanton dancings, Enterludes and Songs, as if they intended to verifie the scoff of *Rutilius*,

Septima quæque dies turpi damnata Veterno,
Ut delassati turpis imago Dei.

In Itinerar.

and that the rest of the day did represent God to have been weary, but therefore was designed for wine and the licentiousness of his servants.

3. The rest of the day was so wholly for the ends of religion, so meerly relative to the publick services of the Church, so nothing of the proper and absolute duty of the day, that the Fathers of the Church affirme it to be better to work then upon that day to be idle and do nothing. So S. *Austin* expresly; *melius faceret .... in agro suo aliquid utile quam si in agro otiosus existeret: &*

L. de decem chordis. c. 3.

melius fœminæ eorum die Sabbati lanam facerent quàm quæ totâ die in neomeniis suis publicè saltarent. To doe something that is profitable in the field is better then to sit there idle, and to spin is beter then to dance.

4. In those places where the offices of the Church are not expensive of the whole day, it is lawful to doe (upon just cause) any work that is not forbidden by our Superiors, or scandalous to our Brethren; in those portions of the day which are unimployed: and to deny this is called perverseness and contrary to faith, *cap. perven. de Consecr. dist. 3. Quidam perversi Spiritûs homines prava inter vos aliqua, & Sanctæ fidei adversa seminarunt, ità ut die Sabbati aliquid operari prohiberent.* They that forbid all manner of work as unlawful by Divine law upon the Sabbath are *prædicatores Antichristi*, preachers of Antichrist: for he when he comes (saies S. *Gregory*) *diem Sabbathi atq; Dominicum ab omni faciet opere custodiri:* shall forbid all working upon the Sabbath *and the Lords day.*

5. The Lords day being set apart by the Church for Religion ought to be so imployed as the laws of the Church enjoin; and no otherwise; and although it were an act of piety (not onely to attend to publick offices, but even) to attend to especial and more frequent private devotions on that day then others, yet this is without all obligation from the Church; concerning whose intention to oblige we can no waies presume but by her words and laws when she hath declar'd her self.

6. The question concerning particular works, or permitted recreations is wholly useless and trifling: for *quod lege prohibitoriâ vetitum non est, permissum intelligitur*, saies the law: all that is permitted which in the Negative precept is not forbidden: but as for some persons to give themselves great liberties of sport on that day is neither pious nor prudent; so to deny some to others is neither just nor charitable. The plowman sits still in the Church and the Priest labours; and the wearied man is permitted to his refreshment, and others not permitted because they need it not; and there is no violation of any Commandement of God, even when there is a prophanation of the day indulged upon pious and worthy considerations.

Glos. ordinar. in 28. Matth.

62. I end this with the words of *Gerson: Quilibet eo die abstineat ab omni labore aut mercatione aut alio quovis laborioso opere secundum ritum & consuetudinem patriæ, quam consuetudinem Prælatus Spiritualis illius loci cognoscens non prohibet; quòd si aliqua super tali consuetudine dubietas occurrat, consulat superiores:* "Upon the Lords day we are to abstain from all merchandizes or other laborious "work according to the Custome and law of the Country: provided that "the Bishop knowing of any such custome doe not condemne it: and if "there be any doubt concerning it, let him inquire of his Superiors. In all these cases, *Custome* and the *Lawes*, the *analogy of the Commandement*, and the *designes of piety*, *Christian liberty*, and *Christian Charity* are the best measures of determination.

In Decal.

63. I have now done with the two great exceptions which are in the Decalogue, and are not parts of the Moral law. All the rest are Natural precepts of Eternal obligation; and are now also made Christian by being repeated and renewed by Christ, and not onely left in their prime, Natural necessity, but as they are expounded into new instances of duty, so they put on new degrees of obligation.

64. As a supplement to this Rule, and in explication of many emergent Questions

Queſtions concerning the Matter of the Divine Laws, and their reſpective obligations, it will be uſeful to enumerate the ſigns and characteriſticks by which we can without error diſcerne which Precepts are Moral, and which are not: for this is a good and a general inſtrument and Rule of Conſcience and uſeful in many particulars.

The meaſures of difference to diſcerne between Moral precepts and precepts not moral in the all laws of God.

65. 1. All Moral laws are ſuch whoſe prime and immediate Meaſures are Natural reaſon: but of precepts not Moral the reaſons may be œconomical or Political, ſome emergency of ſtate or accident, a reaſon that paſſes away or that is introduc'd by a ſpecial bleſſing or a ſpecial caution, a perſonal danger, or the accidents of converſation. That we ſhould obey our Parents is a Moral law. This we know, becauſe for this we naturally and by our very Creation, and without a Tutour have many reaſons, and ſee great neceſſities and find abundant uſefulneſs. For whoever is in need cannot be releeved but upon ſuch conditions as they who are to releeve them will impoſe upon them: Love and obedience are but gratitude and neceſſity; becauſe all children are imperfect and helpleſs perſons; living upon the love and care of Parents and Nurſes: they derive their Natures and their birth, their education and maintenance from them, that is, they owe to them all that for which any Man can be obeyed and loved; they have on them all the marks and endearments of love and fear; they are in reſpect of their children uſeful and powerful, better in themſelves, and beneficial to their deſcendants; and therefore the Regal power is founded upon the Paternal.

Αὐτὰρ ἐγὼν οἰκῆϊ ἄναξ ἐσσι ἠμετέροιο.

And unleſs where God did ſpeak by expreſs voice, he never did ſpeak more plainly, or give power to one man over another ſo plainly as to Parents over their Children; their power is the fountain of all other, and the meaſure of all other; it hath in it the end and uſefulneſs of all Government, it hath love and it hath caution, it is for the good of the Subjects; and though it keeps the honour in it ſelf yet the advantage ever paſſeth on to others: And then if we conſider that children are a part of their Parents, that the Parents are bleſs'd and curs'd in them, that there is in them toward their children a Natural affection, that the little image of immortality in which Men deſir'd to laſt for ever is ſupplied to them by ſucceſſion, which preſerves their Name and Memory; that Parents are more wiſe, and more powerful, and before in time, and uſeful in all regards; that children cannot at firſt underſtand, nor doe, nor ſpeak; that therefore Naturally they muſt be in the poſſeſſion of them that can; that no man will quit his intereſt without juſt reaſon; and theſe reaſons of Subjection being prime and Natural, and ſome of them laſting, and all of them leaving an obligation and indearment behind them, they cannot paſs away without leaving indelible impreſſions; it muſt neceſſarily and Naturally follow that children muſt pay to their Parents the duties of love and obedience,

Ὅστις γ' τὺς τεκόντας ἐν βίῳ σέβει,
Ὅδ' ὅσι' κἀν ζῶν κἀν θανῶν θεοῖς φίλος. Eurip.

It is the voice of Nature: He that honours his Parents is dear to God.

Now

* Now when there is ſo much prime and Natural reaſon: or if there be but any one that is ſo, which by Nature we are taught, it is Gods mark upon an Eternal precept: and whatſoever God hath commanded that is Naturally reaſonable, that is, if it be Naturally known, or if it be a reaſon that is not relative to times and perſons, a reaſon that will not paſs away with the changes of the world; a reaſon that injoines a thing that is perfective of our Nature, and which cannot be ſupplyed by ſomething elſe; all that is to be confeſſed to be a part of the Moral law. But on the other ſide if we take the inſtances of circumciſion, and enquire whether this can be an Eternal law; beſides the waies of diſcovering this by the lines and meaſures of revelation, we can alſo tell by the cauſes of its injunction: it was appointed as a mark of a family, a ſeparation of a people from other Nations, the ſeal of a temporary Covenant, a violence to Nature, not Naturally apt to ſignifie or to effect any thing beyond the wound made by the ſharp ſtone, a rite for which no Natural reaſon can be given; and therefore it was never written in our hearts, but given in tables that could periſh.

66. 2. That of which no reaſon can be given is not a moral precept. Becauſe all Moral laws being alſo Natural are perfective of humane Nature, and are compliances with our Natural needs, and with our Natural and meaſur'd appetites; they are ſuch in which all mankind feels a benefit; and where he ſees his way; they are and have been found out by the Heathen, drawn into their digeſts of Laws; and there was never any law pretended to be Moral, but they that did pretend it, offer'd at a reaſon for it, deriv'd from the fountains of Nature. For every Moral law being Natural; either it muſt be Naturally conſonant to the underſtanding, or onely to the Natural deſires: If to the underſtanding; then there is a diſcernible reaſon; if onely to the deſires; then the meaſure might be this, that whatſoever we Naturally deſire ſhall become a Natural duty; which if it could be admitted, would inferre all the miſchiefs and diſorders of the world. Upon this account all Sacraments and Sacramentals are excluded from being moral laws becauſe they depending wholly upon Divine inſtitution, whoſe reaſons are very often ſecret and unrevealed, we can neither Naturally know, nor Naturally conſent to them, and therefore can ſtand bound to them no longer then to the expiration of that period for which they were invented.

67. 3. The conſequents of Natural reaſon are no indications of a Moral Commandement. For Moral laws are few, and founded upon prime reaſon, ſuch as appears ſo to all diſcerning perſons; but when once men begin to argue, and that their art or obſervation is alſo to be relyed upon; it is ſo often deceived and alwaies ſo fallible, that Gods wiſedome and goodneſs would never put our Eternal intereſt upon the diſputations of men. It is ſaid by ſome men to be of the law of Nature that Spiritual perſons ſhould be exempt from ſecular juriſdiction; but becauſe they inferre this from ſome proportions of Nature, the Natural diſtinction of Spiritual and Temporal, by two or three remote and uncertain conſequences, it is to be deſpiſed; though we had not 1. ſo many precedents in the Old Teſtament to the contrary, and 2. the example of our Bleſſed Lord, who being the head of all Spiritual power was yet ſubject to the Civil Magiſtrate; and 3. the expreſs words of S. *Paul* ſpeaking of the ſecular Magiſtrate; and commanding *every Soul to be ſubject to them*; that is, Prieſts and Monks, Apoſtles and Evangeliſts and Prophets (as S. *Chryſoſtome* thence argues,) and all this 4. beſides the Notoriety of the thing

In hunc locum.

thing it ſelf; Spirituality being a capacity ſuperadded to perſons, who by a former that is a Natural duty are ſubordinate to ſecular ſuperiours. But beſides ail this; If the deduction of Conſequents ſhall be the meaſure of Moral duties, then the wittieſt diſputant ſhall be the Lawgiver, and Logick will be the *Legiſlative*; and there will be no term or end of multiplication of laws: for ſince all truth depends upon the prime and Eternal truth, and can be deriv'd from thence and return thither again, all actions whatſoever that can be in any ſenſe good or uſeful will be in all ſenſes neceſſary and matter of duty. There is a chain of truths, and every thing follows from every thing if we could find it out: but that cannot be the meaſure of laws; for beſides that a thing is reaſonable, there muſt be a Divine Commandement; and if a good reaſon alone is not ſufficient to make a Moral law, a bad one is not ſufficient to declare it. That all who are oblig'd by a law ſhould at leaſt by interpretation conſent to it, is ſaid by many to be of the law of Nature; yet this is ſo far from being a Moral Commandement, that in ſome very great Communities of Men, the Clergy who are not the ignobleſt part of the people have no vote in making laws, nor power to chuſe their repreſentatives. Indeed it is very reaſonable and full of equity that all ſtates of men who are fit to chooſe for others, ſhould at leaſt be admitted to chooſe for themſelves; yet becauſe this relies not upon any prime Natural reaſon that neceſſarily infers it; but is to be truſted to two or three conſequences and deductions, men have leave to uſe their power, and may chooſe whether they will in this thing uſe the abſolute power of a Prince, or the more compliant poſter of a Father. This is better, but that is not evidently againſt a moral Commandement.

68. 4. A law that invades the right of Nature is not alwaies the breach of a Moral Commandement: By the law of Nature no man is bound to accuſe himſelf, but becauſe it is not againſt the law of Nature if he does, and onely againſt a privilege or right of Nature, [1.] the complicated neceſſities of Men, [2.] the imperfection of humane Notices, [3.] and the violence of ſuſpition, [4.] and the dangers of a third perſon, [5.] or the intereſt of the Republick, [6.] or the Concernes of a Prince may make it reaſonable that a Man be ask'd concerning himſelf; and tyed to give right anſwers. A Natural right is no indication of a Moral law. But of this I have already ſpoken upon another occaſion.

69. 5 Every Conſonancy to Natural Reaſon is not the ſufficient proof of a Moral law: For as we ſay in Natural Philoſophy; that τὰ φυσικὰ and τὰ κατὰ τὴν φύσιν, Things Natural and things according to Nature are not all one: It is according to Nature that they who have the yellow jaundies ſhould look of a yellow colour: but this is not a *Natural* affection, but *præternatural* all the way: So it is in Moral inſtances, it is conſonant to Nature that we ſhould not boile a Kid in her mothers Milk, but this makes no moral law, for it is not againſt a Natural law if we doe. * There are ſome little rationalities and proportions and correſpondencies of Nature which are well and decent and pretty, but are not great enough to eſtabliſh a Commandement, or to become the meaſure of eternal life and death. Nothing leſs then the value of a Man, or the concernment of a man is the ſubject of Moral laws, and God having given to a man reaſon to live juſtly and uſefully, ſoberly and religiouſly, having made theſe reaſonable and matters of Conſcience by a prime inſcription, hath by ſuch prime reaſons relating to God or man bound upon us all Moral laws. Man onely is capable of laws, and therefore to man onely under God can Moral laws be relative.

Vid. Aquinat. 12. q. 95. art. 2.

6. Whea

70. 6. When God gives a law and addes a reaſon for it; it is not alwaies the ſign fication of a Moral law though the reaſon be in it ſelf Eternal, unleſs the reaſon it ſelf be proper, relating to the Nature of the thing, and not matter of Empire. For example, when God commanded the people of Iſrael to give the firſt born to him or to redeem it, he addes this reaſon, *I am the Lord:* Now although this reaſon be eternal, yet it is not a proper reaſon for this; but a reaſon by which he does or might injoin all Commandements: and it is alſo matter of Empire and Dominion, by which he can remonſtrate his abſolute ſupreme Legiſlative power, which is reaſon ſufficient for our obedience, but yet it is extrinſecal to the Nature of the precept, and therefore upon this account it cannot be called Moral, whoſe reaſon is alwaies Natural, proper and immediate. But yet even this very reaſon although it is a matter of Empire, yet when it is put to a Commandement as a proper reaſon and refers to the matter of the law, it is a certain token of Morality: for thus this is the preface or the reaſon affixed to the firſt Commandement; and ſomething like it is in the ſecond: For here when God ſaies, *I am the Lord*; it is a proper, Natural, eſſential reaſon inferring that therefore we muſt have no other Gods, nor to any other thing that is not God give Divine honour.

71. 7. When God in the old Teſtament did threaten the Heathens or puniſh them for any fact, it was not a ſufficient argument to conclude that fact to be done againſt a Moral Commandement; unleſs other things alſo concurred to the demonſtration. This I made to appear in the inſtance of ſome marriages: and it relies upon this reaſon; becauſe the Nations were oblig'd by the precepts of *Noah*, all the inſtances or particulars of which were not Eternal in their obligation.

72. 8. All the inſtances or purſuances of a Moral law, are not as Moral or neceſſary as their fountain; but that Moral law is onely to be inſtanc'd in thoſe great lines of duty, which are nam'd or apparently deſign'd in the letter or Analogy of the law. That thoſe who miniſter at the Altar ſhould be partakers of the Altar is a Moral law, and a part of natural and eſſential juſtice and religion: in purſuance of this, the Prieſts did eat of the ſacrifice; and were maintain'd by tithes and offerings; and thus this Moral law amongſt them was inſtanc'd and obeyed: but though theſe were the waies in which the Jews did obey a Moral law; yet theſe inſtances are not Moral and Eternal; becauſe the Commandement can be performed without them: and though the Oxe be muzled when he treads out the Corne, yet if he eats his fill before and after his work there is no breach of the Commandement. Thus alſo it is commanded that we ſhould riſe up to the Grey head; which is a purſuance of the fifth Commandement, but yet this expreſſion of reverence to old Men, is neither neceſſary at all times nor yet to be done by all perſons: another expreſſion may doe all the duty that is intended, and he that with civil circumſtances gives an almes to an old beggar hath done more regard to him then he that gives him a complement: For although Moral Commandements are ſometimes ſignified with the inveſtiture of circumſtances or particular inſtances, yet becauſe great reaſon is their meaſure, prime, natural, eſſential and Concreated reaſon, it is eaſie to make the ſeparation.

73. 9. The ſtrong, violent and firme perſuaſions of Conſcience in ſingle perſons, or in ſome communities of Men is not a ſufficient indication of a Moral law. The weak Brother of whom S. *Paul* ſpeaks durſt not eat fleſh, but

but thought it an impiety next to unpardonable, but he was abuſed: and there are at this day ſome perſons, ſome thouſands of perſons againſt whoſe Conſcience it is to dreſſe meat upon the Lords day, or to uſe an innocent permitted recreation: Now when ſuch an opinion makes a Sect, and this Sect gets firme confidents and zealous defenders, in a little time it will dwell upon the Conſcience as if it were a Native there, whereas it is but a pitiful inmate and ought to be turned out of doors.

74. 10. The conſonant practices of Heathens in a matter not expreſsly commanded by God to them, is no argument that what they did in that inſtance was by the light of Nature, or a duty of a Moral Commandement. The Heathens paid tithes to *Hercules*, they kept the ſeventh day ſacred, they forbad their holy perſons to make ſecond marriages; but it will be too great an eaſineſs upon this account to ſuppoſe theſe to be matter of Eſſential duty: not onely becauſe (as *Tertullian* obſerves) the Devil was willing to imitate the ſerity or cuſtomes and rites of Gods Church, to make his own aſſemblies the more venerable, Symbolical, alluring and perſuaſive; but becauſe the Nations to whom God commanded tithes, Sabbaths and the like, had entercourſe with many others, and were famous in the world by bleſſing and Miracles, by the laws and Oracles of God, by excelent Government and the beſt learnings: The Phœnicians conveyed many Hebrew cuſtoms into *Greece* and ſome learned perſons went to School in *Paleſtine* and taught their own Nation ſome myſteriouſneſſes which themſelves learnd under the Jewiſh Doctours; and when the Judaizing Chriſtians did pertinaciouſly retain circumciſion; they might upon this ground have pretended it to be conſonant to the law of Nature; becauſe even the Gentiles, the Egyptians, the Arabians, all the Nations that deſcended from *Iſhmael* and *Eſau*, and divers other nations their neighbours did uſe it. But, *Conſent is no argument, when it is nothing but imitation.*

75. 11. The appendant penalty of temporal death impoſed by God Almighty upon the breakers of a law, does not prove that law to be of eternal obligation. I inſtance in the gathering ſticks upon the Sabbath, the omitting Circumciſion, the approaching a wife *in diebus pollutionis*; all which were made ſacred by the greateſt penalty, but yet had not the greateſt obligation, they were not Moral.

76. 12. When two laws are in conflict and conteſt and call for an impoſſible obedience, one muſt yeeld to the other; but that which muſt yeeld is not moral and Eternal. The obſervation of the Sabbath, and doing acts of charity did often enterfere in the actions and occurrences of our Bleſſed Saviours life; but the Sabbath was alwaies made to yeeld to charity. Thus Sacrifice and mercy, the outward work and the inward, the letter and the Spirit doe often make contrary pretenſions; but ſacrifice, and the outward work, and the letter are to yeeld and to comply, and therefore are but the expreſſions or inſtances, or ſignifications of a Moral duty; but of themſelves have no morality. This holds in all inſtances and hath no exception.

77. 13. By the not conſidering of theſe meaſures a great part of Mankind have been deceiv'd; but they could onely be ſecured by the firſt; which becauſe it is alſo poſſible to be miſtaken in the application, by reaſon of the miſcarriages and confidence of ſome men; therefore the laſt reſort of all Moral laws is to the Scriptures of the new Teſtament; in which whatſoever is commanded to

all

all Mankind is either moral in its Nature or is so by adoption; which last clause I put in, by reason of the Sacraments, and some glorious appendages of Morality, and heroical acts of charity commanded by Christ: the observation of which although it be not moral, or of prime Natural necessity, yet because they are commanded by Christ whose law is to oblige us as long as the Sun and Moon endures: to us Christians and to all to whom the notice of them does arrive, it is all one in respect of our duty, and hath no real difference in the event of things. But if from the old Testament Men will (as it is very often attempted in several instances) endeavour to describe the measures of Moral laws, the former cautions are of necessary observation.

Rule 7.

There is no state of Men or things but is to be guided by the proportion of some Rule or precept in the Christian law.

1. That is, where there is no law to restrain us, we may doe what we please; but where we are tyed up to rules and measures, we have no Lawgiver or fountain of religion but God, who in these last daies hath spoken to us onely by his Son, who as he is supreme in all things, so he is every way allsufficient, and as by him onely we can be sav'd, so by him onely and by his Spirit we must be govern'd. To this purpose we beleeve that he hath taught us all his Fathers will: He is *the Author and finisher of our faith*; and therefore to him and to an obedience to him we must bring our understanding: we pray that his *will may be done here as it is in heaven*; and therefore he is perfectly to rule our wills here, for we are sure he does rule all above: we have no lawgiver but him, no rule but his will; no revelation of his will but in his word: and besides this we have no certain place where we can set our foot. The laws of the Jews were either for them and their Proselytes alone, or were adopted into the Christian Code; right reason gives measures of things, but of it self makes no laws unless it be conducted by a competent authority; The Prophets were either expounders of *Moses* law, or preachers Evangelical; that is either they call'd to obedience in things not Moral, or if they did, they onely spake the Sermons of the Gospel; and whatsoever was excellent in all the world was but a derivation from the wisedome of *the Eternal Father*; and all this was united into a Systeme of Holy precepts at the appearing of *the Eternal Son*: and since *there is no name under heaven by which we can be saved but onely the Name of Jesus*, and he saves us not onely by procuring pardon for them, but by turning us from our iniquities, by efforming us anew, by reforming whatsoever was amiss in manners and persuasion, by conforming us to the similitude of the Holiness and perfections of God, and brings us to glory by the waies and methods of Grace, that is, never leaves us till our graces are perfect and even with Eternal felicities, it follows that we must goe to him, that he must teach us and guide us, that he must governe us and persuade us, that his laws must be our measures, his wisedome must be our star, his promises our aimes, and we may as well say there can be two principles as that besides him there can be any eternal and supreme lawgiver. *One is more then all the numbers of the world.*

2. And

2. And if we look into the Nature of his Lawes we ſhall *handle* this truth as the people on mount *Sinai* did ſee thunder: all excellencies *have* as perfect Unity as any one hath; and there can be but one juſtice, and it is the ſame grace of mercy which dwells in the bowels of all the good men and women in the world, and of temperance there can be but one general meaſure, and unchaſtity is a certain prevarication of one excellency that is known to all the world; and as for religion ſince there is but one God, and he is to be worſhipped as himſelf pleas'd, and to convey his bleſſings to us by what Mediator and by what inſtruments himſelf ſhall elect; there can be in theſe things no variety, unleſs there be a plain deficiency in the means of the Divine appointment. All the duty of Mankind is in Religion, juſtice and ſobriety; and in all theſe things God by Jeſus Chriſt hath given us many laws, and beſides them he hath given us no other, we have but one Lord, and therefore but one Lawgiver and meaſure of juſtice: we have but one faith, and therefore but one Religion; we have but one Baptiſme, or ſolemnity of renunciation of the fleſh, the world and the Devil, and therefore but one Rule for our comportment; one meaſure of Sobriety according to the Unity of our Nature, which being made after the image of God, is one as God is one. If therefore our Bleſſed Lord be a perfect Lawgiver, his law alone muſt be the meaſure of our duty and obedience; but if he be not a perfect Lawgiver, whither ſhall we goe to underſtand the will of God? *Maſter whither ſhall we goe? for thou haſt the words of eternal life*, ſaid S. *Peter*; there's the queſtion and the anſwer too, and they together make the argument a demonſtration. For if we can obtain Eternal life by the words of Chriſt, then they contain in them the whole will of God; for he that fails in one is imperfect and loſes all: and therefore in the words of Chriſt there is a perfect proviſion for an intire obedience, becauſe they are a ſufficient way to life Eternal. John. 6. 68.

3. The effect of this Conſideration is; that all the meaſures of Good and Evil muſt be taken by the Evangelical lines: Nothing is to be condemn'd which Chriſt permits, and nothing is to be permitted which he condemnes. For this is the great prerogative and perfection of Chriſts law above that of *Moſes*; ſome things by *Moſes* were permitted for neceſſity, and becauſe of the hardneſs of their hearts, thus divorces and Polygamy became legally innocent, becauſe a perfect law was too hard for that people, and like a yoke upon a young Oxe would have galled them, not ſubdued them; and if he had ſtrain'd too hard, the ſilver cords of Diſcipline would have been firſt broken and then deſpiſed. But when Chriſt came he gave perfect laws, and more perfect graces; he made the capacities of his obedience larger, and fitted the law and the Subject by even and Natural and gracious proportions; and permitted nothing which his Father lov'd not; and now every plant that God *hath not planted muſt be rooted up*: and therefore this law muſt needs be abſolute, and alone, and unalterable, and perfect, and for ever: and this appears infinitely upon this account; that although our Nature is ſuch that it will alwaies be growing in this world towards perfection, and therefore that it is imperfect, and our obedience will be imperfect: yet even this Chriſt does not allow or poſitively permit; but commands us to be perfect, that is, to goe on towards it, to allow nothing to our ſelves either of crime or of ſuſpicion, to be perfect in our deſires, to be reſtleſs in our endeavours, to be aſſiduous in our prayers, never to think we have comprehended, never to ſay it is enough: and if our Bleſſed Maſter does not allow of any imperfection of degrees:

but thrusts the most imperfect forwards to perfection it must be certain that in his provisions and his laws there can be no imperfection, but he hath taken care for all things on which eternity depends, and in which God is to be glorified and obeyed. And therefore in no case can it be allowed to any man, or to any company of Men to doe any thing which is not there permitted.

Quest.

4. UPon the account of this Rule it is to be inquired whether it can be lawful for a Prince or Republick to permit any thing for the publick necessities of the people which is forbidden by the laws of Jesus Christ.

5. To this I answer with a distinction: That if the Question be whether in any cases there may be *actual impunity*; there is no peradventure but there may, for sometimes it is necessary, as when a multitude sins, for then the remedy is much worse then the disease, and to cut off all would effect, *ut nemo sit quem peccasse pœniteat*; there would be justice without discipline, and Government without Subjects, and a cure without Remedy: And therefore it is that Princes in the Mutinies of armies or in the rebellion of their people use to cut off the heads of offenders, or Decimate the Legions, as *Cesar* and *Germanicus* did: but if it be part of the people though a considerable part, and the action highly Criminal, we find great examples that executions have been done by Subjects, by the innocent part, and then all the offenders suffer'd: Thus it happened in the mutiny of *Cæcina*'s Legions and their defection to the *Ubii*. The innocent part cut off all the rebels: and thus it was commanded by *Moses* who punished all them who worshipped the golden Calf by the sword of the Levites, he set every mans hand against his Brother, and none of the Criminals did escape. But sometimes it is impossible to punish all; and very often the evil would be more then the good. For in all penal laws and inflictions although there be much of Vindictive justice, yet this justice is but a handmaid to Government and Correction. When revenge is not also discipline, then it is no *Governement*, unless Tyranny be the name of it. So that in such cases, it may be lawful to spare some who need it indeed but deserve it not.

6. But if by impunity be meant a *legal impunity*; it must either mean that a law shall warrant the action, or that it shall before hand promise indemnity: if it warrant the action, which the Evangelical law hath forbidden, it is like the laws of *Omri*, it is *statutum non bonum*, and erects a Government against the law of Christ: if it condemnes the action but promises indemnity, it disparages it self, and confesses its own weakness: but as the first can never be lawful; so neither can the second ever be made so but with these Cautions.

Cautions to be observed in Civil permissions of an unlawful act or state:

7. 1. That the thing so permitted, be in the present constitution of affairs necessary; and yet will not be without the evil appendage. Thus it is necessary that in all communities of Men there be borrowing and lending; but if it cannot be without usury, the Commonwealth might promise not to punish it; though of it self it were uncharitable and consequently unlawful. For it is either lawful; or else it is unlawful for being against Justice or or against Charity. If it be against Justice, the Common-wealth, by permitting it, makes it just: for as it is in the œconomy of the world, the decree of God doth establish the vicissitudes of day and night for ever: but

but the Sun by looking on a point not onely ſignifies but alſo makes the little portions of time and divides them into hours; but Men comming with their little arts and inſtruments make them to be underſtood, and ſo become the Suns interpreters: ſo it is in the matter of juſtice, whoſe great return and firme eſtabliſhments are made by God, and ſome rules given for the great meaſures of it; and we from his laws know juſt and unjuſt as we underſtand day and night: but the laws of Princes, and the contracts of men like the Sun, make the little meaſures and divide the great proportions into minutes of juſtice and fair entercourſe; and the Divines and Lawyers goe yet lower, and they become expounders of thoſe meaſures, and ſet up dials and inſtruments of notice by which we underſtand the proportion and obligations of the law, and the lines of Juſtice: juſt and unjuſt we love or hate reſpectively by our warrant from God; and from him alſo we are taught to make the General lines of it; as *Do what you would be done to, reſtore the pledge, hurt no man, rob not your neighbour of his rights, make no fraudulent contracts, no unjuſt bargains:* but then what are his *rights*, and what are not, what is *fraudulent* and what is *fair*, in what he hath power, in what he hath none, is to be determin'd by the laws of Men: So that if a Commonwealth permits an uſurarious exchange or contract, it is not unjuſt, becauſe the laws are the particular meaſures of juſtice and contracts, and therefore may well promiſe impunity where ſhe makes innocence (as to the matter of juſtice.) * But if uſury be Unlawful becauſe it is uncharitable: then when it becomes neceſſary it is alſo charitable comparatively; and as to charity no man by the laws of God is to be compelled (becauſe it is not charity if it be compelled; for God accepts not an unwilling giver, and it is not charity but an act of obedience and political duty when by laws men are conſtrain'd to make levies for the poor;) ſo much leſs can they be compelled to meaſures and degrees of charity; and if to lend upon uſury be better then not to lend at all, it is in ſome ſenſe a charity to doe ſo: and if it be when it will not be otherwiſe, there is no queſtion but the Prince that allows indemnity, is not to be damnifi'd himſelf. I inſtanc'd in this, but in all things elſe where there is the ſame reaſon there is the ſame concluſion.

8. 2. Impunity may be promiſed to any thing forbidden by the law of Chriſt, if it be in ſuch caſes in which the Subject matter is diſputable and uncertain whether it be ſo or no; then it may. Thus it happens in queſtions of religion, in which it is certain there are many reſolutions againſt the truth of God; but yet they may be permitted, becauſe when they are probably diſputed, no man is fit to puniſh the error, but he who is certain and can make it appear ſo to others, that himſelf is not deceived.

9. 3. Whatſoever is againſt the law of Chriſt in any inſtance may not be directly permitted for the obtaining a greater good, but may for the avoiding of a greater evil which is otherwiſe indeclinable. If a Prince be perfectly perſuaded that the ſuffering the doctrine of Tranſubſtantiation is againſt the laws and words of Chriſt it may not be ſuffered, though the parties intereſted promiſe to pay all the Gabels of the Nation and raiſe an army to defend it: but if a rebellion cannot otherwiſe be appeaſed it is lawful; not onely upon many other accounts which are appendant to the Subject matter, but becauſe when two evils are before me, neither of which is of my procuring, I am innocent if I ſuffer either, and I am prudent if I chooſe the leaſt, and I am guilty of no crime becauſe I am but a ſuffering perſon: but if I doe it to obtain a greater good, I chooſe the evil directly, becauſe I am not forc'd

to purſue the greater good; I can be without it; and although I may choſe the leaſt evil becauſe I cannot avoid that or a greater; yet when the Queſtion is, whether I ſhall permit an evil or loſe an advantage, I may eſcape all evil, at no greater price then by looſing that advantage: ſo that here is no excuſe becauſe there is no neceſſity; and in matters of duty, no good can make recompence for doing any evil: but the ſuffering of a greater evil is highly paid for by the avoiding of a greater.

10. 4. When any ſuch evil againſt the laws of Chriſt is permitted, the evil it ſelf muſt be ſo reproved, that the forced impunity may not give ſo much incouragement to the crime as the cenſure muſt abate. The reaſon is, becauſe no evil muſt be done at any price; and we muſt rather loſe our life then cauſe our Brother to offend; and if *each man* is bound to this, then *every man* is bound to it. But becauſe impunity is the greateſt incouragement to ſin, and next to the pleaſure or intereſt of it, is the greateſt temptation; care muſt be taken that what ſerves the intereſt of the Republick, may not deceive the intereſt of Soules; and this being the greateſt ought infinitely to be preferred; and therefore unleſs ſomething be directly done that may be ſufficient ſecurity againſt the probable danger, no intereſt of the Commonwealth is to be ſerv'd againſt it; becauſe none is ſufficient to be put in ballance againſt one Soule.

11. 5. This impunity (eſpecially if it be in the matter of ſobriety) muſt not be perpetual, but for a time onely, and muſt be reſcinded at the firſt opportunity. Thus S. *Auſtin* when he complain'd of the infinite number of ceremonies which loaded the Church and made her condition more intolerable then that of the Jews under the Levitical yoke, addes this withall, that this was no longer to be tolerated then till there was a poſſibility to reforme. And when S. *Gregory* had ſent *Auguſtin* the Monke to convert the Saxons, he gave him advice not to preſſe them at firſt too paſſionately to quit their undecent marriages, which by their long Cuſtomes and the intereſt of their families they would be too apt to hold too pertinaciouſly and with inconvenience, but afterwards it would be done.

12. 6. Till the impunity can be taken away, it were an act of prudence and piety, and (in many caſes) of duty, to diſcountenance the ſin by collateral and indirect puniſhments: Thus the old Romans confin'd their *lupanaria* to the outer part of the city; It was a *Summænium*, and their impure women had a name of diſgrace, and a yellow veile was their cogniſance: and ſo the Jews are us'd in ſome places: but thus we find that S. *Paul* and the Apoſtles tolerated thoſe Chriſtians which from among their own Nation gave up their Names to Chriſt; who yet were *Polygamiſts*, or which was equivalent, had married a ſecond wife their firſt being living and divorc'd, but although this could not well be avoided, leſt they ſhould be vex'd into Apoſtacy, and their Judaical hardneſs of heart was not yet intenerated ſufficiently by the ſofter and ſweeter Sermons of the Goſpel; but yet to repreſent their diſlike of ſuch marriages which they were forc'd to tolerate they forbad ſuch perſons to be taken into their Clergy, ſo puniſhing ſuch perſons by a privation of honour whom they could not puniſh by a direct inflíction of cenſures, or ſeparation from their wives.

13. 7. In all ſuch tolerations of evil, the ſecular intereſt muſt be apparently ſeparate

ſeparate and declar'd to ſtand far off from any thing of the Religion; and the Conſciences permitted to ſtand or fall under them, who are to take care of them and anſwer for them; the permiſſion by the civil power is not to reſcue them from the Eccleſiaſtical rod: for it being a matter of civil intereſt is not to derive any countenance from religion, ſo much as accidentally; for no powers of Man can forbid the ſervants of Chriſt to preach his law, to declare his will, and to get Subjects to his Kingdome, and to turn ſinners from the error of their way: if they doe, they muſt not be obeyed, but God muſt, and if they die for it they are well enough.

* * * * *

14. But now againſt the doctrine of the Rule many things may be objected; for there ſeem many things and great caſes to be for which the laws of the holy Jeſus have made no proviſion. I inſtance in a very great one, That is, the whole ſtate of warre, and all the great caſes and incidents of it. For ſince it is diſputable whether Chriſtianity allowes of warre, and it is not diſputable but very certain that it ſpeaks nothing of it expreſsly, neither gives any cautions concerning it in particular, it will ſeem to be a *caſus omiſſus* in the law. To this there may be many conſiderations offered.

Of the meaſures of warre by Chriſts law.

15. 1. If it be ſaid that all warre is unlawful, againſt the analogy and againſt many expreſs lines of our religion; it is indeed a ſhort way of anſwering this difficulty, but will involve the whole Chriſtian world in many more; but of this in the following numbers I ſhall give accounts.

16. 2. If it be ſaid that Chriſtianity leaves that matter of warre wholly to be conducted by the laws of Nature and Nations: we ſhall find that this will intangle the whole inquiry, but we ſhall never come to any certainty. For if the Chriſtian law be (as I have proved) a perfect digeſt of the Natural law; to ſay the affairs of warre are to be conducted by the laws of Nature is not to put them from being determin'd by the Chriſtian law, becauſe they are the ſame; and if in the law of Chriſt there be no rules of warre, neither can there be any in Nature. But beſides this, if the laws of Nature which concerne warre be not ſet down in the Goſpel and writings of the new Teſtament, but that we be ſent to look for them in the tables of our own hearts in which ſome things are diſordered by paſſion, and many more are written there by intereſt, and ſome by cuſtome, and others by education, and amongſt men theſe are the authors of contrary inſcriptions; we ſhall find the law of Nature a ſtrange thing by that time we have drawn it from thence onely, and look'd over it to find ſome rules of war, whoſe whole being is very much againſt the excellent and perfective laws of Nature.

17. 3. If it be ſaid that Warre is to be conducted by the meaſures of peace; we ſpeak what is impoſſible to be true: for *inter arma ſilent leges*, not onely becauſe the ſword is licentious and impudent; but becauſe the caſes of peace and warre are wholly different.

18. 4. If it be ſaid that right reaſon muſt be the meaſures; I anſwer, that if right reaſon could be heard poſſibly, there would be no warre at all: and ſince one part begins the warre againſt, reaſon it is not likely that he for any reaſon that can be urg'd ſhall loſe his advantage. But beſides this who ſhall be

judge? whose reason shall rule? whose arguments shall prevail? and will he who is *minor in causa* be *minor in prælio*, he who hath the worst at the dispute yeeld also in the fight? and are not the *pugnacissimi* the fighting men such as will hear and understand the least reason?

19. 5. Some will have the law of Nations to be the measure of warre; and possibly it might if there were a Digest of them, and a compulsory to inforce them; but there being neither, they are uncertain what they are, and are admitted with variety and by accident, and they shall oblige strangers when the men are conquered; and Subjects by the will of the Prince, that is, the measures of warre shall be the edicts of any single General and nothing else.

20. In the midst of these oppositions it will be hard to find something certain: but that which can most be relied upon is this. * That Christian Religion hath made no particular provisions for the conduct of warre *under a proper title*, because it hath so commanded all the actions of men, hath so ordered the religion, so taken care that men shall be just, and doe no wrong, hath given laws so perfect rules so excellent, threatnings so severe, promises so glorious that there can be nothing wanting towards the peace and felicity of mankind, but the wills of men. If men be subjects of Christs law, they can never goe to warre with each other; but when they are out of the state of laws and peace, they fall into the state of warre; which being contrary to peace, is also without all laws. So that the injurious person is not to inquire how to conduct his warre, for he is gone beyond all law; into a state of things where laws are of no value: but for the injur'd person he is just so to comport himself as he can; having one measure of *action*, and another of *defence*.

21. *For his defence:* it is not to be measured by laws, but by privileges: that is, things being gone beyond the laws of Nature: he is left to his natural powers and defences; and is to doe this without any other limit, but that he defend himself and his relatives and drive away the injury. That is, there being no law of God to forbid him to defend himself he is at his liberty which Naturally every man hath: *Hoc & ratio doctis, & necessitas barbaris, & mos*
Cic. pro Mil. *gentibus, & feris Natura ipsa præscripsit, ut omnem semper vim, quacunque ope possent, à corpore, a capite, a vita sua propulsarent.* The learned are taught by reason, the barbarous nations by necessity, the civil by custom, the very beasts also by Nature, to defend their head, their body, their life from all injury by all means. For God hath no where forbidden that a man shall be defended,

Ovid. *Armáque in armatos sumere jura sinunt;*

we may put on armour to defend us against an armed malice: he hath indeed forbidden private revenges, because those are intrusted to the laws and publick persons; but when a single person is injur'd he can defend himself or crave the patronage of Princes and the laws; but when publick interests are violated, when Kingdomes and Communities of Men and Princes are injur'd, there is no law to defend them; and therefore it must be force: for force is the defensative of all laws: and when all laws are injur'd, there can be no way to reduce men to reason, but by making them feele the evils of Unreasonableness. If this were not so then all Commonwealths were in a worse state of affairs then single persons: for Princes are to defend each single person; and the laws are to secure them; but if the laws themselves be not

not defended, no ſingle perſon can be; and if they could, much rather ſhould all. *Whatſoever is abſolutely neceſſary is certainly lawful*, and ſince Chriſt hath no where forbidden Kings to defend themſelves and their people againſt violence; in this caſe there is no law at all to be conſidered; ſince there is a right of Nature which no law of God hath reſtrained; and by that right all men are equal; and therefore if they be not ſafe from injury it is their own fault or their own unhappineſs; they may if they will, and if they can: and they have no meaſures in this but that they take care they be defended, and quit from the danger and no more. The *Jus naturæ*, the rights and liberties, the equalities and privileges of Nature are the warrant of the defence, or rather there needs no warrant, where there is no law at all: But this right of Nature is the meaſure of the defence, we may be defended as much as we need.

22. But then if it be inquired, what is the meaſure *of actions* which muſt be done in the conduct of the defence by the injur'd Prince or Republick, and how ſhall they be meaſur'd if Chriſt in his laws hath made no proviſions and deſcrib'd no rules? I anſwer, *That the meaſures of action in publick are no other then the meaſures of the private*; the ſame Rule of juſtice is to be between Princes and between Private perſons: they alſo muſt *doe as they would be done to*; they muſt *keep covenants, perform their words, hurt no innocent perſon whom they can preſerve*, and yet preſerve themſelves, they muſt keep themſelves within the limits of a juſt defence: and as in private contentions and repetitions of our right we muſt look after juſtice, but doe nothing againſt charity, we muſt defend our rights, but doe the adverſary no wrong, and by no vexatious meaſures ſecure our own intereſt, and deſtroy his juſt right, in an unneceſſary conduct of our own, ſo it is with Princes: He that is injur'd may drive away the injury, he may fight againſt invaders, he may divert the warre if it be neceſſary; but he may not deſtroy the innocent with the guilty, the peacable Countrymen with the fighting Souldiers: and nothing can legitimate that but an abſolute neceſſity, that is, it muſt not be done at all when it can be underſtood and when it can be avoided: and there is no direct action of warre but it is to be rul'd by neceſſity, and juſtice and charity, and in theſe there is no variety of the rule, and no change except what is made by the Subject matter, which muſt be made to combine with the meaſures of juſtice and charity by the inſtruments of reaſon and cuſtoms and publike fame, and all the meaſures of wiſe and good Men.

23. Warrs are ſo to be manag'd as private contentions are; and there are the ſame rules for both, that is, when they are equals: but if it be a warre betwixt Subject and Superior, it is on the Princes part to be conducted as other acts of publick juſtice: when a ſingle executioner can puniſh offenders, that is enough; if one cannot, more muſt; for it is every mans intereſt that the injurious ſhould be puniſhed; and he that can raiſe the Country Troops by law, to aſſiſt the executions of juſtice, may raiſe all the Troops of his Kingdome to doe the ſame duty when there is a greater neceſſity: But for the Subjects who take up armes againſt their Superior, there is no anſwer to be given by what meaſures they muſt conduct their armes, there is no meaſure at all for them, but one, to lay them down and never to take them up again. For it can not be expected that a wiſe and a holy lawgiver ſhould give rules for the *Banditi* to manage their violences, or the *Circaſſians* how to conduct their plunder and their robberies: Chriſt never gave any laws concerning rebels, but obedience and repentance: and for juſt warres, that is, the defenſive warres of Princes (for

(for there is no other juſt but what is defenſive directly or by a juſt equivalency) Chriſt hath given no other laws but the ſame by which ſingle perſons in their contentions or differences are to be conducted: and thus alſo S. *John* the Baptiſt gave the ſame meaſures to the Souldiers which contain every mans duty; *Doe violence to no man*, and *be content with your wages*. For warre is but the contention of many: and as it is in ſocial contracts which are to be governed by the ſame juſtice as private Merchandiſe; ſo it is in ſocial contentions: for in this caſe, two and two thouſand make no difference in the rule, but much in the circumſtances of the matter.

Queſt.

24. BUT upon this inſtance it is ſeaſonable to inquire whether the precedents of the old Teſtament be ſo imitable by them that goe to warre, that they can paſs into a law, or if not, yet whether they are ſafe or no?

25. The queſtion though inſtanc'd in the matter of warre, yet is of uſe in all affairs whatſoever; becauſe there are divers portions of mankind, 1. who think every thing is imitable which they find done in the Scriptures, and 2. nothing ſafe or warrantable that is not: Theſe being their meaſures of right and wrong have great influence into the queſtions of Conſcience, and therefore are to be eſtabliſhed upon certain rules.

Of the Negative meaſures of examples in the Old Teſtament.

26. 1. Therefore it is evident that not every thing done in the old Teſtament is a warrant for us: I inſtance in all the injuſtices and violences, rapines, and open prevarications of Natural rights, concerning which there needs no further diſquiſition; but we are to keep our ſelves to the rule; that is, to Gods meaſures not to mans, *non quà itur, ſed quà eundum*; *and we muſt not follow a multitude to doe evil*, *Argumentum peſsimi turba eſt. Quæramus quid optimè factum ſit, non quid uſitatiſsimum; & quid nos in poſſeſsione felicitatis æternæ conſtituat, non quid vulgo veritatis peſsimo interpreti probatum ſit.* The croud is the worſt argument in the world: let us inquire not what is moſt uſual but what is moſt excellent; let us look after thoſe things which may place us in the boſome of beatitude, not thoſe which can tune with the common voices which are the worſt interpreters of truth in the whole world: and therefore that ſome perſons were recorded in the Scriptures is no hallowing of the fact, but ſerves other ends of the Spirit of God. But in this there is no queſtion.

Seneca de vita beata. c. 2.

27. 2. The actions of good men in Scriptures are not a competent warrant for our imitation; not onely when they are reproved, but even when they are ſet down without cenſure. The reaſons are plain, 1. Becauſe all the ſtories of the Bible are not intended to be Sermons: and *the word of God is uſeful for doctrine, for reproof, for exhortation and for information*; not every comma and period for every one of theſe purpoſes; for they are contrary: but in the whole there is enough to make the man of God perfect and readily inſtructed to every good work, to every holy purpoſe. Therefore as we muſt not imitate the adultery and murder of David, which are expreſsly condemned, ſo neither may we diſſemble madneſs as he did at *Gath*, nor perſwade another to tell a lie for us, as he did to *Jonathan*, that he ſhould ſay he was gone to Bethlehem, when he went but into the fields, and to pretend ſacrifice, when it was a very flight. 2. Becauſe every man is a liar, and therefore unleſs himſelf walks regularly

gularly he can be no rule to us. 3. Every servant of God was bound up by severe measures, and by his rule he was to take account of his own actions, and therefore so are we of his. 4. There were in the old Testament greater latitudes of permission then there are to us: Polygamy was permitted for the hardness of their hearts, but it is severely forbidden to us; and though without a censure we find *Jacob* to be husband to two sisters at once; yet this cannot warrant us who are conducted by a more excellent Spirit, taught by a more perfect institution, governed by a severer law under the last and Supreme Lawgiver of Mankind: μείζονα ὑπιδείκνυσθαι δεῖ τὴν ἀρετὴν, ὅτι πολλὰ τοῦ πνεύματος χάρις ἐκκέχυται νῦν, καὶ μεγάλη ἡ τοῦ χριστοῦ παρουσία καὶ δωρεά said S. *Chrisostom*: we Christians ought to shew a greater vertue and more eminent Sanctity; because we have received abundance of the Spirit of God and Christs comming is a mighty gift: and if we should derive our warranties from the examples of the old Testament, it were all one as if from the licences of warre we should take patterne for our comportment in the daies of peace and laws, or from children learne what were the measures of a man. 5. Because sometimes the actions of good men were in them innocent because done before a law was given to them; but the Symbolical actions by a supervening law afterwards became criminal. Thus although the drunkenness of Noah is remark'd without a black character, and plainly told without a censure, it cannot legitimate drunkenness in us, because he was not by any positive law bound from a freer use of wine, directly by proper provision; but we are. 6. Because the actions of holy men in Scripture are complicated, and when they are propounded as examples, and the whole action described, there is something good and something bad; or something naturally good, and something peculiar and personally good which cannot pass into example. Thus when S. *Paul* speaks of *Gideon* and *Jephthah*, *Samson* and *David*, *Deborah* and *Baruch*, who thorough faith subdued kingdomes; here their subduing Kingdomes by invasion and hostility is not propounded as imitable; but their faith onely, and therefore let us follow their faith but not their fighting: and carry the faith to Heathen Countries but not armes. So when the fact of *Razis* is propounded as glorious and great when he kill'd himself to avoid *Nicanor*, the whole action is not imitable, but onely so much of it as was pious and prudent; and the other is to be prais'd as being the choice of a lesser evil, or is to be left to its excuse, as being necessary and unavoidable.

3. 4. 5. 6. De Virgin. 2 Mac. 14.

28. 3. The actions of men in the old Testament though attested and brought to effect by the providence of God, is no warrant for our practice nor can they make an authentick precedent. I instance in the fact of *Jeroboam*, who rebelled against the house of *Solomon*; although God was the author of that change, and by his providence dispos'd of the event, yet *Jeroboam* had rules to have gone by, which if he had observed God would by other means have brought his purposes to pass; and *Jeroboam* should not have become a prodigy and a proverb of impiety. For a man is circumscrib'd in all his waies by the providence of God just as he is in a ship: for although the man may walk freely upon the decks, or pass up and down in the little continent; yet he must be carried whither the ship bears him: A man hath nothing free but his will, and that indeed is guided by laws and reasons, but although by this he walks freely; yet the Divine providence is the ship, and God is the Pilot, and the contingencies of the world are sometimes like the fierce windes which carry the whole event of things whither God pleases: So that this event is no part of the measure of the will: *that* hath a motion of its own

which

which depends not upon events and rare contingencies, or the order of secret providence: and therefore *this which could not commend his action cannot warrant our imitation.*

29. 4. Actions done in the old Testament though by a command of God doe not warrant us or become justificable precedents without such an expres command as they had: if the command was special and personal, the obedience was just so limited; and could not pass beyond the person. Thus *Jehu* took up armes against the house of *Ahab* by the command of God; who intended to punish him severely. But we may not lift up our hand against our Prince though he be wicked; unless God give us such an expres Commandement: For *nothing is imitable but what is good:* but in this *there was nothing good but the obedience*; and therefore *nothing can legitimate it but a Commandement.*

30. 5. Actions of good men if done upon a violent cause, or a great necessity are not imitable unless it be in an equal case and a like necessity. *David* when he was hungry went into the Priests house and took the bread which was onely lawful for the Priests to eat, and to this example Christ appeals; but it was in a like case in a case of necessity and charity, *He that does the same thing must have the same reason, or he will not have the same innocence.*

31. 6. Examples in matters of war are ever the most dangerous precedents: not onely becaus men are then most violent and unreasonable, but becaus the rules of warre are least describ'd; and the necessities are contingent and many, and the reason of the action depending upon heaps of circumstances (of which peradventure no notice is recorded) can less be understood; and after all this, becaus most commonly they are unreasonable and unmerciful. That *David* made the peop'e of the Ammonites to pass under Saws and harrows of iron is not safely imitable by Christian Souldiers; becaus it had so much cruelty, which either must be criminal or have an extraordinary legitimation, which it is certain Christian Princes cannot have unless it be by a rare contingency, and a new revelation, to which they can never reasonably pretend. But that they may drive out an invading army, that they may kill them that resist, that they may by warre defend the publick rights in which all the private are involved, they may safely take for their warrant; the example of *Abraham* fighting in behalf of the King of *Sodom*; the act of *Melchisedek* in blessing God for the succes of that battel; the warres of the Judges and of *David*, becaus these were just and necessary by special command, or necessary defence, faith was the great instrument, and Gods blessing gave them prosperity; they were against no law, and the like cases God hath not since restrained, and therefore we of our selves being left to the rights of our Nature, and unconfin'd by the laws of God, proceed prudently when we have the confidence of such great examples; against which the interest of no law is publickly, the interest of no vertue is secretly ingaged.

32. 7. When a law is changed, the Examples which acted in proportion to that law lose all manner of influence and causality, and cannot produce a just imitation. Among the Jews it was lawful for a private person to transfixe his Brother or his Father if either of them tempted him to idolatry; and in a cause of God they might doe publick justice by a private hand. All the actions of their Zealots done in such instances are no examples to Christians: becaus when that Priesthood was chang'd, the law was chang'd, and then the

Nature

Nature of the action paſs'd from lawful to unlawful; and therefore could not be imitated. He that is to write Greek muſt not tranſcribe it by the Hebrew Alphabet, and when the copy is altered, the tranſcript muſt alſo receive variety and ſpecifick difference. Thus the Diſciples of our Lord would fain have done as *Elias* did; but Chriſt told them that he was not imitable in that, by telling them the ſpirit which is the principle or great inſtrument of action was wholly changed. It was not ſafe for them to doe as *Elias* did, becauſe they were to doe as *Chriſt commanded.* Thus we find in the old Teſtament King *Solomon* dedicating and conſecrating of a Temple, it was a new caſe, and he was an extraordinary perſon, and the Chriſtian Church hath tranſcribed that copy ſo farre as to dedicate and conſecrate Churches or Temples to the ſervice of God, but ſhe does it by the miniſtery of Biſhops who are amongſt us the precedents of prayer, and have thoſe ſpecial aſſiſtances and Emanations of the holy Spirit upon their order which *Solomon* had in his own perſon and much more; and therefore though the act is exemplar, yet it is not imitable as to the perſon officiating: becauſe to doe ſo is not properly the effect either of power or of office; but being to be done in the way of prayer is by the reaſon of the thing it ſelf; and the conſtitution of the Church appropriate to the Preſidents of Religion.

Of the Example of Chriſt.

33. 8. In the new Teſtament we have ſo many, ſo cleer, ſo perfect rules, that we have no need of examples to inſtruct us or to warrant our practices; but examples to encourage and to lead us on in the obedience of thoſe rules. We have but one Great Example; *Jeſus Chriſt*; who living in perfect obedience to his Father, did alſo give us perfect inſtruction how we ſhould doe ſo too in our proportion. But then how far Chriſt is imitable, and ought to be imitated by us is beſt declared in this ſhort rule.

34. *In whatſoever he gave us a Commandement, in that onely we are bound to imitate him: but in whatſoever he propounded to us as excellent, and in whatſoever he did Symbolically to it, in all that alſo we may imitate him.*

35. This rule eſtabliſhes the whole caſe of Conſcience in this affair. Becauſe our Bleſſed Saviour being an extraordinary perſon was to doe ſome extraordinary things, in which either we cannot, or we ought not to imitate him. He faſted fourty daies, *we cannot:* He whip'd the buyers and ſellers out of the Temple, *we may not* without the authority of a publick perſon: He overthrew the Tables of the Merchants, but the young man in *Portugal* who being tranſported with zeal and ignorance beat the chalice and the Sacrament out of the Prieſts hand out of paſſion againſt his idolatrous ſervice (as he underſtood it) had a ſad event of his folly amongſt men; and what reward of his zeal he found with God is very uncertain. But whatſoever he taught to mankind, of that alſo he became a glorious example: but *by the Sermons onely we are inſtructed, by the example incouraged:* for *admonetur omnis ætas fieri poſſe quod aliquando factum eſt:* we ſee it poſſible to be done what Chriſt commanded us to doe, and then did, that *we might follow his ſteps.* But his example in theſe things makes up no part of our Rule, becauſe it is perfect without them: Here our rule is perfect, and ſo is our example; but becauſe Chriſt did ſome things beyond our rule, and paſt our meaſures, and things of perſonal vertue and obligation, therefore we are to look upon Chriſt as imitable juſt as his life was meaſur'd

Foxe Martyrol.

S. Cyprian.

measur'd by the laws he gave us, where they are, even there we also must endeavour to be so. * There is this onely to be added: That in the prosecution of his obedience to his heavenly Father; he sometimes did actions *in gradu heroico*, of great excellency; which although they are highly imitable, yet they pass no obligation upon us but that we endeavour to tread in his steps, and to climb up to his degrees, and to desire his perfections. * That these pass upon us no other obligation appears because they are sometimes impossible to be attain'd to; and they are the highest and the best, and therefore are not direct matter of duty, which belongs to all, to the highest and to the lowest. * But that these do pass upon us an obligation to endeavour to attain them, and of labour towards them in our circumstances, appears in the greatest instance of all, the highest obedience, even that which was unto death; for *therefore Christ hath suffered for us, leaving an example to us, that we might follow his steps*: that is, when he had given his Church precepts and propounded to them rewards of suffering: he also was pleas'd to give us the greatest example as a commentary upon his own text; declaring that the Commandement did extend to the greatest instance; and that we should do as he did, *obediens factus usque ad mortem*, he was obedient even unto death; and so must we when God requires it in particular. * And that this is our duty, and that the obligation reaches thus farre, is certain upon the interest of love; for we must love him who is our Lord and our God; we must love him with all our heart and with all our powers; and therefore endeavour to be like him: ἡ δ' ὁμοίωσις τῷ νόμῳ πᾶσι ἡ πρὸς ἐπαίνους τῶν πεμφθέντων γνῶσις, καὶ ἡ πρὸς αὐτὸν κατὰ δύναμιν ἐξομοίωσις· ὁ γὰρ ἀγαπᾷ τις, καὶ μιμεῖται ὅσον οἷόν τε, ὡς φασὶν οἱ Πυθαγόρειοι, τιμᾷ τὸν θεὸν ἄριστα, ἐὰν τῷ θεῷ τὴν διάνοιαν ὁμοιώσῃς. The greatest honor we can doe to God and Gods law, is to understand God and to become like to him. For every one imitates that which he loves. *Religiosissimus cultus est imitari*, said *Lactantius*, that's an excellent instance of the Divine worship, to endeavour to become like to the Holy Jesus.

1 Pet. 2. 21.

Hierocl. in carm. aur.

36. 9. But this is to be reduc'd to practice so as that 1. The duty be certainly imitated; and 2. The degree of duty aim'd at; 3. And the instance be chosen with prudence and liberty. Thus when we find that Christ did spend whole nights in prayer; the duty here recommended is earnestness and diligence in prayer. In this we must imitate our Blessed Lord; because his rule and his example make τὴν κατὰ Χριστὸν ἕνωσιν, an excellent confederation and society. But then to doe it with that vehemence and earnestness, that degree of diligence, is a rare perfection which we can onely tend to in this life, but we must doe what moral diligence we can: And as for the instance and particularities of duty and devotion, we are yet at greater liberty, for we are not oblig'd to pernoctation in praier, so we pray earnestly and assiduously, which is *the duty*, and endeavour to doe it like Christ, which is *the passion of the duty*, and the degree of love, and the way of perfection; but that it be in the night, or in the day is but the circumstance of the duty, nothing of the Nature, nothing directly of the advantage of it; and is to be wholly conducted by prudence and consideration of accidents.

37. 10. After all this; as Christ must be imitated in all matter of duty; and is imitable in degrees of duty; and that for the circumstances of it we are wholly at liberty: so also it is in matters of his own ordinance and institution in which the Religion is to be obeyed, the design is to be observ'd and promoted, the essentials of the observation to be infallibly retain'd; but in the incidencies

incidencies, and collateral adherencies which are nothing to the Nature of the rite, nor at all appertain to the religion, there is no obligation, no advantage, no love, no duty in imitating the practice of our Bleſſed Saviour. Thus to celebrate the Bleſſed Sacrament of the Lords Supper with bread and wine, to doe it in remembrance of his death, to doe it as he commanded, in obedience to him, to receive it *à præſidentium manu*, from the hands of the Preſidents of Religion, is matter of duty, and matter of love, and matter of obedience; but to ſuppoſe we are bound ſo to imitate the actions and circumſtances of the actions of Chriſt, as that it is duty or neceſſity that we take it in unleavened bread, to mingle water with wine, to receive it in wines of Judæa, to receive it lying or leaning on a bed, to take it after Supper, is ſo farre from being matter of love or duty, and a commendable imitation of Chriſt, that it is mimical and theatrical, trifling and ſuperſtitious, a ſnare to Conſciences, and a contempt of religion; it is a worſhipping of God with circumſtances in ſtead of formes, and formes in ſtead of ſubſtances, it is like burning muſhromes upon the altar, and a converting dreams into a myſtery; It is flattery, not love, when we follow our Lord in thoſe things in which he neither gave command, nor did any thing of Religion or excellence, that is, in which he neither propounded himſelf imitable, nor to be obeyed. For what worthineſs was there in it that Chriſt did eat this Supper at Supper time; or that when he did inſtitute this he was at his other Supper, and did as the faſhion of the Countrey was at his ſupper? what religion was there in it that he drank the wine of his own Countrey? and what ceremony or myſtery was it if according to the uſages of Sober perſons he put water into his wine for his ordinary beuvrage? and how could theſe become matters of Religion or imitation, when they were onely the incidencies and inveſtitures of the ordinary actions of life and converſation? and in theſe things the intereſt of Religion is conducted competently by common reaſon. He that follows the vices of his Prince does like the man that worſhip'd *Mercury* by throwing ſtones at him; and he ſerves him with a miſchief, and to pleaſe his vitious Prince thruſts him forward to Eternal ruine. But he that to humour him carries his neck aſide, or ſhrugs his ſhoulders in the ſame manner, or holds his knife at dinner by his pattern, is a flatterer; but he onely loves his Prince and is a worthy ſervant, who fights bravely if his Prince be valiant, and loves worthy things by his example, and obeyes his laws and celebrates his fame and promotes his intereſt, and does thoſe things in imitation, for which his Lord is excellent and illuſtrious in all the world.

38. But becauſe againſt a Rule no example is a competent warrant; and if the example be according to the Rule, it is not the example, but the Rule that is the meaſure of our action; therefore it is fit to inquire of what uſe it can be to look after the examples either of the old or new Teſtament; and if it be at all, ſince the former meaſures are not ſafe, to inquire which are. In which inquiries we are not to conſider concerning examples whoſe practices are warranted by rules; for in them as there is no ſcruple, ſo neither is there any uſefulneſs ſave onely that they put the rule into activity, and ferment the ſpirit of a man; and are to the lives of men, as exhortation is to doctrine; they thruſt him forward to action, whoſe underſtanding and Conſcience was preingag'd.

Of the use of examples in the old and new Testament.

39. But then if it be inquir'd, What use examples are of beyond the collateral incouragement to action, and which are safe to be followed? I answer,

40. 1. That in cases extraordinary, where there is no rule, or none that is direct or applicable with certain proportions to the present case, then we are to look for example, and they are next to the rule the best measures to walk by. But this is of no use in any matter where God hath given a law; but may serve the ends of humane inquiry in matters of decency and personal proportions, when men are permitted to themselves and their entercourse with others. For the measures of humane actions are either the τὸ ἁγιον, καὶ τὸ δικαιον, *That which is holy, and that which is just*: and of this our Blessed Lord hath given full rules and measures: or else the measure is, τὸ καλὸν καὶ τὸ ἁρμοττον, *That which is worthy and becomming such a person*: and because laws doe not ever descend to such minuits, the practices and examples of imitable and exemplary persons is the auxiliary of laws. But this is coincident to that of fame and reputation thus if it be inquired in the daies of persecution, whether is be fit to fly or to abide the worst; although we are by all general rules unlimited and unconstrain'd, and so the question of lawful or unlawful will cease, yet because it may be a Question of the τὸ ἁρμοττον, we may look about and see what such men as we are and ought to be, have done: *Shall such a man as I fly?* said the brave *Eleazar*: he did not, and so made up the Rule by becomming a worthy precedent.

41. 2. In complicated questions when liberty and necessity are mingled together, Rule and example together make the measures. Thus if it be inquired how we are to comport our selves towards our King, and what are the measures of our duty towards a Tyrant or a violent injurious Prince: the rule is plain, *we must not strike Princes for justice*; and we must not hurt the Lords anointed, nor revile the Ruler of the people: but if we inquire further concerning the extension of a just defence, the Example of *David* is of great use to us, who not onely comported himself by the laws of God and Natural essential reason; but his heart smote him for that he had cut off the lap of *Sauls* garment: and by his example kept us so far within the moderation of necessary defence, that he allowed not any exorbitancy beyond it, though it was harmless and without mischief.

42. 3. In the use of privileges, favours and dispensations where it is evident that there is no rule, because the particular is untied from the ligatures of the law; it is of great concernment that we take in the limits of the best examples. And in this we have the precedent of our Blessed Saviour to be our guide: For when in the question of Gabels or tribute-money, he had made it appear that himself was by peculiar privilege and personal right, free; yet that he might not doe any thing which men would give an ill name to, he would not make use of his right, but of his reason, and rather doe himself an injury, then an offence to others. This is of great use in all the like inquiries: because it gave probation that it is better to depart from our right, then from our charity: and that privileges are then best made use of, when they are us'd to edification.

43. 4. In all matters of doubt, when the case seems equal to the Conscience on either hand, so that the Conscience cannot determine, there the examples of wise and good men are of great use to cast the ballance and to determine the action: for to an equal Scale every grane that is added will be sufficient to make the

the determination. If it be disputed whether it be lawful to relie upon the memory of our good works, and make them as an argument of confidence in God; and the rules of conduct seem antinomies, and when we think Gods goodness and justice is warrant for the affirmative, and yet the rules and precepts of humility bear us to the Negative; between these two, if they stand on equal termes, the Example of *Hezekiah* is sufficient to make the determination.

44. 5. The greatest use of examples is in the interpretation of laws: when the letter is equivocal, and the sence secret, or the degrees of action not determin'd; then the practice of good men is the best external measure we can take: for they are like *sententiæ judicatæ* in the law: the sentences of Judges and the precedents in the like cases, by which the wisest men doe often make their determinations. Thus the example of *David* in dividing the spoil between them that fought and them that guarded the stuff, as being a sentence in a question of equity, became a precedent in the armies of Israel for ever after.

45. These are the uses we may make of Examples in Holy Scriptures and Ecclesiastick writers; which uses are helps to our weakness, but no arguments of the imperfection of Christs law; for all these uses are such which suppose us *unable to make use of our rule*, as in the case of a doubting Conscience, or *not to understand it*, as in case of interpretation; or else are *concerning such things which are not direct matter of duty*, but come in by way of collateral obligation: as in matter of decency and personal proportions; for which although examples may applie them, yet the laws of Christ have given us the General measures.

46. But then since there is this use to be made of them, and the actions of men in Scripture are upon so many accounts as I before reckoned inimitable and unfit precedents: the next inquiry is, What are the positive measures by which we may know what examples are imitable and fit to be proceeded in.

The positive measures of example, and which may be safely followed?

47. 1. In this the answer hath but little difficulty not onely because of the Cautions already given in the Negative measures, but because the inquiry is after examples in cases where the Rule is not cleer and evident, not understood, or not relied upon; and they being in some sense us'd onely in the destitution of a rule, may with the less scruple be followed, because if there be no rule cleer enough to guide the action, neither will there be any to reprove the example Therefore that which remains is this;

8. 2. That example is safe, whose action is warranted by Gods blessing. Thus the piety of the Egyptian Midwives was imitable, in that they refus'd to kill the Lords people at the command of *Pharaoh*; for it is said, *Therefore God did build them houses*, it was mingled with an officious lie, but that was but accidental to their action and no part of its constitution, and therefore not relative to the reward: but whatsoever God saies he rewards with a blessing, that in equal circumstances may be safely imitated. I doe not say whatsoever is blessed or is prosperous, is imitable: for it may be prosperous and yet unblessed in one regard and accursed in another, or successful to day and blasted to morrow, or splendid in this world and damned in the next; or permitted for the trial of Gods servants, or the extinction of their sins, or the very thriving of it may be the biggest curse, and nurse up the sin into its monstrous ugli-

nesſ and is no other but like the tumor of an Ulcer, it ſwells indeed and grows very great, but it is a ſore all the way and is a contradiction to proſperity; and ſin never thrives unleſs it be in the moſt Catachreſtical and improper way of ſpeaking in the world: but I ſay when it is ſaid or plainly enough ſignified in Scripture that God did bleſs the man for ſo doing; that for which he was bleſſed, that I ſay is onely imitable. * And on the other ſide though an action be deſcrib'd in ſtory without its mark of good or bad, it is a great condemnation of the action if the event was intolerable and the proper production was a miſchief: and thus was the drunkenneſs of *Lot* condemned, becauſe inceſt was the product, and of *Noah*, becauſe ſhame and ſlavery were the two daughters of it.

49. 3. Becauſe in theſe examples for which there is no perfect rule the concernment is not a direct but a collateral duty, not matter of direct obedience, but fame and reputation, that *things honeſt in the ſight of all men be provided*; therefore ſuch examples onely are to be followed which *are of good report*. A man ſhall not be called a juſt perſon if he invades his neighbours rights, and carries warre to diſpoſſeſs a people that live in peace, upon pretence becauſe we find in Scripture that *Nimrod* did ſo; becauſe he was an infamous perſon: but when *Joſhuah* kept the Gibeonites alive becauſe though he was deceiv'd by them yet he ſwore to them, and yet did make them to be ſlaves to his people; he is very imitable both in one part and in the other, and we may not break our words upon pretence we were deceived, but yet we may doe all that we can juſtly doe for the intereſt of our relatives: and all this can well depend upon the example of *Joſhuah* becauſe his fame is intire and illuſtrious he is accounted a good and a brave man.

50. 4. We muſt be careful to diſtinguiſh the examples of things lawful from the examples of things good and juſt: and alwaies imitate theſe, but with caution follow thoſe; not onely becauſe what was lawful in the old Teſtament is not alwaies ſo in the New, but that what is *lawful* at all times, at ſome times is *not fit* to be done. But then, let every example be fitted to the queſtion: If the inquiry be whether this action be *holy* or no? an example that declares it *lawful* does not anſwer that queſtion, but if it be ask'd whether it be lawful, the example proving it to be holy does conclude the other more ſtrongly.

51. 5. When evident ſigns of piety like veins of Silver in the groſſer earth are mingled with the example, it adds many degrees of warranty to the determination. Thus our B. Saviour in his apology made for his Diſciple appeald to the example of *David* eating the bread of propoſition: it was indeed an argument to them depending upon the fame of the Patriarch, but yet our B. Saviour knew there was in it great charity and lines of piety to his hungry followers when *David* neglected a ceremony that he might doe a charity and releeve a neceſſity, and therefore Chriſt did it not becauſe *David* did it, but becauſe he might: *Davids* action was not Chriſts warrant, but the piety of the thing was warrant to them both. And indeed this is the right uſe of examples: by the advantage of the mans fame they may reprove an adverſary, but by the great lines of piety mingled with the body of the action they may become a precedent for our imitation.

I have now given accounts concerning that principle (mention'd num. 25.) which affirms [*every thing to be imitable if done and deſcribed in the Scripture*] unleſs it be ſignally forbidden. Concerning the other [*That nothing is ſafe or warrantable that is not*] I reſerve it for its proper place.

CHAP.

CHAP. III.

Of the Interpretation and Obligation of the Laws of JESUS CHRIST.

RULE I.

In Negative precepts the Affirmatives are commanded, and in the Affirmative commandements the Negatives are included.

1. NOT he that gives the law onely, but he who authoritatively expounds the law becomes to us a Lawgiver: and all who beleeve in God and in Jesus Christ confess themselves Subjects of the Christian Laws; but all doe not obey alike, who confess themselves equally bound, and are equally desirous to obey: because men by new or false or imperfect interpretation of laws become a law unto themselves or others, giving them measures which our Blessed Lord never intended: and yet an error in these things is far more dangerous then in a thousand others in which men make greater noises. I shall therefore indeavor to describe plain and rational measures of interpretation, that we may walk securely.

2. It is observable that in the Decalogue and so in the whole law of *Moses* there are more negative Precepts then affirmative. The Jewish Doctours say that there are sixe hundred and thirteen precepts given by *Moses*, according to the number of letters in the Decalogue which are sixe hundred and thirteen But of these 248. are affirmative according to the number of the joints of a mans body: but 365. are Negative according to the number of the daies of the yeer: but to omit these impertinent and aiery observations of the Jews it ministers some useful and material considerations, that in the Decalogue all the Moral precepts one onely excepted, are Negative (for that of the Sabbath is the *caput ceremoniarum*:) But that of obedience to our Superiours is onely positive and affirmative: The reasons were these, by which also we can understand the usefulness of the observation.

3. 1. Because this being the first great reformation of the world was to proceed by the measures of Nature; from imperfection to growth: from the beginnings of Religion to its greater excellencies: but in Nature the first step of our progression is to abstain from evil;

Virtus est vitium fugere, & sapientia prima
Stultitiâ caruisse.——

and therefore the face of the Commandement was covered with the robe of

diſcipline, and God would ſo ſecure their ſervices that they ſhouldnot diſpleaſe ger him; but the excellencies of holineſs by which he was to be indear'd to mankind were eſpecially the glories of Chriſt, not the horns of *Moſes*, the perfections of Evangelical Sanctity, not of the beginnings of the law.

4. 2. The great Sanction of the law was fear of puniſhment; and therefore God choſe to repreſent his law to them in Negatives, that according to the endearment ſo might be the obedience: Now to abſtain from evil is the proper effect of fear, but to doe good for fear of puniſhment is as improper as to threaten a man into love. Fear is the bridle of ſervants and boys, love is the ſpurre of brave and good men.

Non furtum feci, nec fugi, ſi mihi dicat
Servus, habes pretium, loris non ureris, aio:
Non hominem occidi, non paſces in cruce corvos.

Thats the dialogue of Maſters and Servants. If you be a thief you ſhall be condemned to the mill; if you be a murderer, you ſhall be broken upon the wheel: but if you abſtain from ſuch crimes, your reward ſhall be, you ſhall eſcape the *furca*: ſince therefore the ſpirit of the law was the ſpirit of fear and of bondage, God did tranſact his Covenant with them in negative meaſures.

5. 3. The law of *Moſes* was a purſuance of the Covenant of works; and ſince it had in it very little beſide the Umbrages of the χρηστὸς ζυγὸς the ſweet yoke of the Goſpel, it did ſtipulate for exact meaſures: but therefore the precepts were negative that the obedience might be the more poſſible, and the injunction the neerer to paternal: for it is much more poſſible to abſtain from ſins of commiſſion then from ſins of omiſſion: So that,

Optimus eſt qui minimis urgetur,

is the beſt meaſure of obedience to the Moſaick law: he is the good Man who cannot be accuſed to have done what the law forbids, he who hath done the feweſt evils, not he who does the moſt good: and thus alſo the Phariſees underſtood their duty: and they were not reprov'd by our bleſſed Lord, for underſtanding the Negative precepts by the rules of abſtinence and a Negative duty; but becauſe they underſtood their Negative duty onely by the meaſures of the letter, not of the intention and Spirit of the law: and 2. becauſe when they had been by the Commentaries of the Prophets and other holy men inſtructed in ſome Evangelical meaſures and more perfect intendments, ſecretly at firſt deſign'd by God, and ſo expounded by the Prophets by way of Evangelical preparation; yet they would ſtill adhere to the old and firſt underſtandings of the law; becauſe they lov'd ſome ſins which (as they had known) were forbidden by thoſe Negative precepts if they would have opend their hearts to underſtand them as they ſhould.

6. 4. That the fifth Commandement is affirmative in the midſt of all the Commandements that are Negative, hath a peculiar reaſon, but nothing againſt the former diſcourſe: for it being a Sanction of obedience to our Superiours under God, is to be expreſſed in actions and external ſignifications; Not onely becauſe theſe onely can doe benefit, ſervice and advantages to our Parents and Princes, but becauſe of nothing elſe can they be judges: Men take no cogniſance of thoughts and ſecret purpoſes; but of outward ſignifi-

cations;

cations; and therefore the precept was to be affirmative, that is, preceptive of outward actions. 2. There is in children toward their Parents so much natural love and so much fear, and they are so long under their power and the needs of minority, that it will very rarely happen that children can despise their parents or curse them: their own interest, and their own passions, and their own affairs will secure the negative measures of that Commandement; and therefore the world was in this instance dispos'd to receive greater degrees of injunction and a higher Commandement: Nature in this instance doing the same office for them as the whole law did in the other; that is, it was παιδαγωγὸς a Schoolmaster to bring them to Christ: and if they had been as much disposed for the entertainment of the rare and excellent affirmative Commandements of Christ in the matter of chastity and charity and meekness and humility as in the matter of duty to their Parents, there would have been less need of the interposition and interval of the law of *Moses* before the comming of Christ.

7. And these observations are verified by the ἀντιστροφὴ or corresponding part: for the precepts of Christ are positive and affirmative, as appears in his Sermon on the Mount, which is the Summary of his Law, in which when he expounded the Negative commands of *Moses*, he still superadded an affirmative of his own: So that it will be nothing but matter of speculation to discourse whether or no in the law of *Moses*, the affirmatives were included in the Negatives; it is certain the Pharisees did not understand them so; and they are not alwaies involved in the nature of each other, and the promises of the law were not sufficient to incourage the ἀγαθοεργία the doing of good works, though the fear was enough to restrain the evil: but that which concerns the Conscience is that which now is evident and palpable: In the laws of Jesus Christ the negative and affirmative are but correlatives; *oppositа relativa*, and doe inferre each other. Thus we find it expressed often *Whoso looketh on a woman to lust, hath committed adultery*: that was our Blessed Lords commentary on the sixth Commandement which was negative; but he addes; *If thy right eye offend thee pluck it out*. So again, *Resist not evil*, thats the negative precept, but Christ adds, *If any man sues thee at the law and takes thy coat, let him have thy cloak also*. So in the matter of oaths, Christ said, *Swear not at all*: for he still added a more severe negative to the Negative of the Law; but then he addes his own affirmative: *Let your communication be yea, yea, nay, nay*; that is, let it be plain and simple, meek and positive, easie and ingenuous. Matth. 5. 28, 29 39, 40.

8. Thus our Blessed Lord did in his recitation and exposition of the Moral Commandements deliver'd by *Moses*; in the interpretation and inlargement of which although it was proper to declare a Negative by a Negative; yet he would follow his own method and design, and superadde his own affirmative; and when he was doing the office of a Lawgiver rather then of a Prophet and expounder of the old law, there his words were positive and affirmative. Witness the eight Beatitudes; the precepts of charity and humility, of giving and forgiving, of fasting and prayer, and many others: but because in the doing all this, he made large discourses and gave laws and exhortations, precepts and reasons, promises and threatnings in complication and mutual consequences; therefore we are without further inquiry sufficiently instructed that our duty is now intended to be complete, and as we must abstain from all evil, so we must doe all the good we can.

9. But

9. But this is to be understood with its proper caution. For we say in Logick, *ad Negationem non semper sequitur affirmatio oppositi*: every Negative does not presently inferre every contrary affirmative, as a matter of duty. It follows well, *Thou shalt not forswear thy self*, but *thou shalt pay to the Lord thy vowes*, but it does not follow, that therefore thou shalt make vows: So in these also there is no consequence of obligation. Thou shalt not take from thy Neighbour what is his; therefore thou shalt give to thy Neighbour. Thou must take from none, therefore thou must give to all: Thou must not give false testimony, therefore thou must tell all the truth thou knowest: Thou mayest not give wrong judgement, therefore you must give right; for it may so happen that you need not give any at all: These instances point out to us the measures of affirmatives which follow from the contrary Negations. Thus:

10. 1. Affirmative duty follows from the Negative; not in contraries but in contradictories. To make a vow and break a vow are contraries; and therefore it follows not, because I must not break a vow therefore I must make one: but to break a vow and not to break it are contradictories, and therefore if one be forbidden the other is commanded; and if the Commandement be expressed in Negatives; Thou shalt not break thy vows, the affirmative is in the bosome of it, therefore thou shalt keep them: because, unless this part of the contradiction be done, the other is, and therefore it is not enough, that we doe nothing expresly against the instance of the vow; but we must also understand our selves oblig'd to the performance of it according to the first intention. The reason of this is, because between two contraries there can be a third thing of a disparate Nature; not at all included or concluded by either part, either by inference or by opposition.

11. 2. From a Negative an affirmative is not alwaies inferr'd in a particular instance: We must not be uncharitable in any instance; but it follows not that by vertue of this Commandement, therefore we must be charitable, or doe our almes in every instance: for every man is not bound to redeem captives, or to visit prisoners: the reason is, because uncharitableness and visiting prisoners are not opposed in their whole matter and nature; but the Commandement which is contrary to uncharitableness can be obeyed according to all its intention although it be not instanc'd in that particular. But this is to be added; that when by accidents and circumstances and the efficacy of some other Commandement we are called upon to this instance; then that this be done is by vertue even of the negative, by the prohibition of uncharitableness, because when we are determin'd to an instance, the Sanction of the whole Commandement is incumbent on it; and will not be satisfied without it; but in other cases it is indifferent, and is obeyed by any instance that is fitted to our circumstances and to our powers. It is like a mans stomach, which of it self is indifferent to any good meat, but when by a particular χρᾶσις or accident it requires this and nothing else, it must either have this or it will fast: So are affirmative laws; though they oblige to every instance, and are indifferent to any that we can and may, yet sometimes we are determin'd to this and no other, and then the whole force of the law is upon it. But else, ordinarily it is true; that the universal negative infers onely the indefinite affirmative; not the particular: The *Universal* is onely inferd by the consequence, the *particular* by accidents and circumstances.

3. From

12. 3. From a Negative law the affirmative is inferr'd but not in the same degree of duty and necessity. It is not so great a sin if we neglect an act of charity, or an opportunity of doing glory to God, as if we doe an act of uncharitableness, or positively dishonour God. The reason is, because sins of omission are less then sins of commission, because negligence is not so bad as malice, and of omission sometimes there is no evil cause, but a meer negative or unavoidable inadvertency; but of a sin of commission, the cause is alwaies positive, and therefore alwaies intolerable.

13. 4. The affirmative which is inferr'd by the Negative law of Christ is not absolute and unlimited like the Negative, but modificated and limited by its proper and extrinsick measures. We must in no case and for no regard hinder our innocent Neighbour from doing his necessary work, but it does not follow, that therefore we must alwaies set his work forward, and lend him oxen to plough his land: for it is in no case lawful to doe evil, but in many cases it is lawful not to do good: that is, there is something more required to specificate a positive act besides the consequence of a Negative law: For although the body of an action is there commanded, yet because the body of the action must be invested with circumstances, they also must have their proper causes, or they cannot have a direct necessity. *Never turne thy face from any poor man*, is a negative precept: to which the affirmative of Christ doth rightly correspond, *Give to every one that asks*: Now although the Negative is universally to be observ'd in its own just sense, *Ut nè aversemur à paupere*; that is, that we deny not to be charitable to him; yet when this comes to be specificated by positive actions, the Commandement is not the onely measure; but some conditions are requir'd of him that is to receive; and some of him that is to give: for for to him that will not work when he can, we are not to give; and he that needs it for himself is not oblig'd to part with it to his Brother; supposing their needs are equal or not extreme. To this purpose is that known rule, that *Negative precepts oblige alwaies, and to an actual obedience in all times*: but *affirmative although they alwaies oblige, yet they can be obeyed but in their own season.* So that although every Negative precept is infinite and hath no limit; yet the affirmative have extrinsick measures and positions of their own, something to make them laws to me and you, though the consequence of the negative is sufficient to make them to be laws to all Mankind. So that although Negative precepts may be the mother of affirmatives, yet the child is but a dwarf and not like the Mother; and besides that it is exposed to be nursed by chance and by circumstances, by strangers and all the measures of contingency.

14. 5. When affirmatives are included in, and inferred from the Negatives, *the proportion* of them is not positive but comparative: Thus when our Blessed Lord had given Commandement, *Resist not evil*, That is, we should not doe evil for evil: the affirmative which is properly consequent from this, is, *Doe good for evil*: and this is obliging according to the former measures: but when you inquire further into the proportions, and ask after the instances, which our B. Saviour made, we shall find that their obligation is not *positive* but *comparative*: *If a man strike thee on thy cheek, turn the other also*, that is, rather then revenge thy self for one injury, receive another; and rather then vexe him who forces thee to goe a mile, goe with him two mile: not that Christ intends you should offer to doe thy self a shrewd turne, or invite another; nor that thou shouldst suffer it, if thou canst fairly avoid it: but that thou

thou ſhouldeſt chooſe rather to ſuffer two evils, then doe one. But this is eſpecially to be reduc'd to practice in matters of Councel rather then Precept; that is, *when the affirmative inferr'd from the Negative is matter of perfection rather then poſitive neceſsity; then the comparative proportion is a duty; but the abſolute proportion and meaſure is but Councel.* To oblige an Enemy and doe him acts of favour and benefit is an excellency of charity: for which Chriſtians ſhall receive a glorious reward: but this is a Councel of perfection, which if upon probable reaſons, and fairly inducing circumſtances it be omitted, a man ſhall give no anſwer for: but when the caſe is ſo, that it muſt be that I muſt either take revenge of him, or elſe reſcue him from that revenge by an act of kindneſs, by a labour of love, or an expence of charity, then this becomes a duty; for in comparative meaſures every affirmative is at leaſt obligatory: that is, we muſt rather be at any trouble, or expence to doe an affirmative, then prevaricate a Negative Commandement.

15. But then as to the other part of the Rule; that [*in the affirmative Commandement the Negative is included*;] there is no other difficulty but this, that caution be had that the negative be oppos'd to the affirmative in relation to the ſame Subject: for becauſe we are bound to love our friends therefore we muſt not hate them; but it follows not (as the Phariſees did falſely comment on this text) Becauſe we muſt love our friends therefore we muſt hate our enemies; for theſe two are not oppos'd as affirmative and negative in the ſame ſubject, but as two affirmatives relating to Subjects that are divers.

16. But this is ſometimes not to be underſtood of the preciſe Commandement it ſelf, but of the appendages; I mean the promiſes and threatnings: for though it follows, we muſt doe good to our Neighbour; therefore we muſt doe no evil to him: yet it does not follow, Doe this and live, therefore if ye doe not doe it ye ſhall die: the reaſon of that is this, becauſe there are ſome things encouraged with excellent rewards, the negatives of which are permitted to us with impunity: Thus it is ſaid by our bleſſed Saviour, *When thou makeſt a feaſt, invite the poor, and thou ſhalt have recompence in heaven*; but then if we doe not invite the poor it does not follow that we ſhall be puniſhed in Hell; but we ſhall not have that recompence which the Hoſpitable man ſhall have: So that to invite the poor is an affirmative precept; but in this the Negative included is not; [Thou ſhalt not invite the rich] or if thou doeſt thou ſhalt be puniſhed: but that [it is not ſo excellent a thing, it is not ſo incouraged by the propoſition of an eternal reward;] but expires in a temporal intereſt: So that the *Negative included* relates to the *reward*, not to the *precept*, and means this onely: if thou doeſt not invite the poor thou ſhalt not have any reward in heaven; for feaſting and making entertainments. But the ſign of this is, 1. *when the precept is onely in the particular inſtance of a general commandement*; as this of inviting the poor is of alms or charity: or elſe 2. When it is matter of Councel and not of expreſs precept: then the Negative is not directly included in the preceptive words, but in the reward that is appendant.

17. Laſtly, when it is ſaid that in the affirmative precepts the Negatives are included; the word [Negative] is to be underſtood in the Moral ſence; that is, ſo as to include the privatives alſo: Thus when we are commanded to love our Brother, it is not onely forbidden to us to hate him; but we are alſo commanded not to omit to expreſs our love by Symbolical actions: for not

not onely contrarieties and repugnancies to the duty of the Commandement; but even omissions also are forbidden: and this is highly to be regarded in the matters of charity; which toward Enemies we use to estimate by our not cursing him, our not hurting him, our not being revenged on him: these indeed are proper instances of the Negative included; but the privatives also are to be considered; for not loving him is hating him; our refusing to doe him kindness, our not praying for him, our unaptness to doe him good offices, our remembring and reporting his injustice, our refusing to converse with him and denying him the comforts of our Society, when without danger or injury to our selves we may converse; is a prevaricating the Negative or privative measures of the Commandement.

RULE 2.

When a Negative and an Affirmative seem opposite in any sence, the Affirmative is to be expounded by the Negative, not the Negative by the Affirmative.

1. THus are those various expressions of our Blessed Saviour to be considered and understood. *Unless ye eat the flesh of the Son of Man and drink his bloud, ye have no life in you*: and yet our Blessed Lord saies, *He that eateth the flesh of the Son of man hath life abiding in him.* Now to them who suppose these words to relate to the Sacramental manducation, the question is, Whether or no it be necessary to drink the bloud *in specie* as well as to eat the flesh? because of the exclusive Negative requiring both under the forfeiture of eternal life; or shall it suffice to receive the flesh onely, because life is promised to to be in him who eats the flesh, in that place no mention being made of drinking the bloud.

2. To this the answer is made by this Rule; the Negative cannot be lessened by the Affirmative, because a Negative can have no degrees as an Affirmative can; and if the Affirmative were in this case sufficient, when the Negative is expres to require more, then the Affirmative were directly contrary to the Negative: but on the other side, though the Affirmative requires less then the Negative, there is no contradiction. 1. Because in matters of duty whatsoever is any where requir'd is every where suppos'd; and no interpretation can lessen it from what it is in its whole integrity. 2. Because all our duty is not every where repeated, but the not repeating it in any place cannot annull the obligation in that place where it is expressly requir'd. 3. Because a threatning in all laws is of more force and efficacy then a promise; and therefore when under a threatning more is requir'd, the promise that is affix'd to a part of it must be understood by the analogy and promise to that threatning, because one thing is enough to destroy us, but one thing is not enough to preserve us, *Bonum ex integra causa, malum ex qualibet particulari.* 4. Because it is ordinary in Scripture to give the promise to every part of duty which yet shall never be paid to that alone: thus to purity, to poverty of Spirit, to mercy, to faith, to almes, to patience, to hope, the promises of blessedness are given; but although it is said, *the pure in heart shall see God*; and *the poor*

in

in ſpirit ſhall have the Kingdom, and they that quit houſes and lands for Chriſts ſake ſhall receive the reward of the other world; yet unleſs all that is requir'd be put together in the duty, nothing of the reward ſhall be given to the perſon. Every part of an excluſive negative is an indiſpenſable duty; but every affirmative that is incouraged by a promiſe does not contain a whole duty, but a part of duty, which by being Symbolical to the whole is incouraged as every other part is, but is not paid but in an intire payment, to an intire obedience.

3. This alſo is true when in the affirmative more is put then in the Negative, for even then the Negative is the ſtrict meaſure of the Commandement, and the limit of its abſolute neceſſity and exaction. *He that beleeveth and is baptized ſhall be ſaved, but he that beleeveth not ſhall be damned.* Here the negative
Mark. 16. is the utmoſt limit; the *neceſſe eſſe* is deſcrib'd in that; the *bene eſſe*, and the ordinary expectation in the other: by which we are thus to underſtand this and ſuch other expreſſions, that the Negative contains the indiſpenſable duty, and ſuppoſes an obligation that nothing can excuſe in perſons capable; but the Affirmative that ſuppoſes more is yet for that which is over and above content with a leſs neceſſity, and admits of eaſier diſpenſation: For it containing all that is expected is like a *Summum jus* which though by the method of laws it is often expreſſed that obedience may be invited as forward as it can, yet the ὕφεσις or the abatement is in the Negative; thats the loweſt, and therefore it is bound up with the penalty. For to the higheſt duty the reward is promiſed, and it is more then enough to pay it, but the puniſhment is threatned by lower meaſures: God abates much before he ſmites; and though he will reward every good we doe, yet every good that is omitted is not puniſhed with death. But this is to be underſtood when the good is of that Nature that it may be omitted upon a probable cauſe, or without malice; or without the direct prevarication of an expreſs Commandement. For many good things are wholly put to us upon the account of hope and promiſes, and not of Commandements, and obedience: though in theſe alſo God makes what abatements he pleaſe: but we are to make none at all.

Rule 3.

In the Affirmative and Negative precepts of Chriſt, not onely what is in the words of the Commandement, but whatſoever is Symbolical or alike, is equally forbidden or commanded.

1. When S. *Paul* had enumerated the works of the fleſh, and had put into the Catalogue moſt of thoſe crimes which are commonly nam'd in
Gal. 5. 21. laws and fame and the manners of men; he adds, καὶ τὰ ὅμοια τούτοις, and thoſe things which are like to theſe. For 1. there are ſome things which are too bad to name, ſuch were the impurities of the *Tribades*, *Fellatrices*, *Dranci*, *Pathici*, *Pædicatores*, of which the Apoſtle ſaies, *it is a ſhame even to name ſuch things as are done of them in ſecret*: πᾶσαν ἀτιμίας, thats the general word which the Apoſtle uſes for them all, *diſhonourable luſts*: Now when all unnatural luſts are forbidden, all mixtures but what are hallowed by marriage,

and

the order of Nature, it is no part of the perfection of the law, to name the ſpecies of impurity, and the circumſtances of that vileneſs which gets new names as men pleaſe to undoe themſelves by tricks and artifices of ſhame.

2. There are ſome ſins which are like new diſeaſes, vile and infectious in one yeer, or in one age which were never heard of before, and die with reproach and are never heard of again. That a woman ſhould grow to that impudence as to marry her adulterer in the ſame town where her husband was living, and a Prince, was ſo rare a contingency, that though it was once done in *Rome*, yet no law was needful to prevent it: and there needed no law to forbid a man to marry a boy; yet *Nero* did marry *Sporus*, and he married *Doryphorus*, whom *Tacitus* calls *Pythagoras*: but this was no leſs a ſin, becauſe it was not the expreſs vocal contradiction of a law; it was againſt a law that nam'd it not.

3. There are ſome ſins which Nature and the publick manners of the world doe ſo condemne, that they need no ſpecial mention in the laws. No law forbids us to eat mans fleſh, and yet all the civil part of mankind hate and condemne them that doe it; and thoſe Egyptians who did *Deperire defunctarum cadavera*, fall in love with the dead bodies which they did anoint, were condemned by the voice of all the world, without the charges of an expreſs law; and all that read the Narratives of the Gnoſtick impurities, how they did in the impureſt ſenſe, *Litare in ſanguine femineo*, and make their Euchariſt of matter of abhomination, have enough of prime reaſon and common notices of laws and things to condemn their vileneſs, though they never ſtudy the queſtion or inquire which Commandement they prevaricate.

4. There are ſome ſins like others that are nam'd; which are not diſtinct kinds, but like the monſters of *Africa* produc'd by heterogeneous mixtures, or equivocal generation: Thus to geld a child to make him have a good voice is ſo like cruelty, and the unmercifulneſs of homicide or mutilation, and is ſuch a curioſity of voluptuouſneſs and ſenſuality, that though it wants a name to ſignifie its whole ſinfulneſs, yet it muſt ſtand condemned though there be no text againſt it deſcrib'd expreſsly in the Tables of the law. To give money for Eccleſiaſtical preferments is ſo *like the ſin of Simon Magus*, that it hath obtain'd his name and his reproach, and yet it is not the ſame crime; but upon the account of S. *Pauls* ὁμοίωμα or *Similitude*, it hath the ſame condemnation. Thus *Polygamy* is like adultery, and marrying after divorce (except onely in the caſe of fornication) is like *Polygamie*. Concerning which things, there is one meaſure *in general*, and ſome other more *particular*.

1. In *General*.

2. * *The likeneſs of things to thoſe which are expreſsly forbidden is not to be eſtimated by formes and outſides, and material reſemblances, but by the intrinſick irregularity and reaſon of the prohibition.* To kill a wife or daughter taken in Adultery even in thoſe Countries where by the laws it is permitted, looks as like murder, as killing can: but becauſe the laws allow the intereſted man to be the executioner, it is the publick hand not the private that takes the vengeance: and therefore they are not alike in a culpable ſimilitude. But on the other ſide, to take my goods whereever I find them looks like juſtice; but becauſe of juſtice a man is not to be Judge and executioner in his own caſe, and this thing is in many caſes forbidden by the laws, this is againſt juſtice; for it is not enough that it is his own; for although it is *juſtum*, a juſt thing to take my own, yet to doe it from a thief by private authority where it isforbid-

den by the publick, is *juſtum injuſtè factum*, a juſt thing done after an unjuſt manner. But if there be a likeneſs of injuſtice, a prevarication of the ſame reaſon, an equal injury, then not the letter of the law, but the reaſon and the ſpirit of it is its condemnation. *Par pari referre*, to give back the good I have borrowed is one of the great lines of Juſtice; and upon this account we are bound to pay debts, to performe contracts, to make equal returnes of valuable conſiderations, and whatever is againſt this is againſt juſtice. But then becauſe acts of kindneſs are the tranſition of a good from one to another, and although it is without a bargain, yet it is not without an obligation ingratitude comes under the τὰ ὅμοια, it is ſo like injuſtice that it is the worſe for it. It is expreſsly commanded that we ſhould provide for our children according to our powers: and therefore they that expoſe them are worſe then infidels and have denyed the faith: but then to deny to nurſe their own children (unleſs it be upon a juſt and a reaſonable cauſe, upon charity or neceſſity) is ſo like expoſing them, that it muſt ſtand as reprobate under the ſentence of the ſame Commandement.

3. 2. But *the particular* meaſures of this Rule are theſe: *watſoever is of the ſame ſpecification is of the ſame obligation and neceſſity.* But if men would be ingenuous and worthy in giving ſentences of their actions and underſtanding the meaſures of their duty, there could be no difficulty in this. For men are eaſie enough to conſent to a General rule, but they will not ſuffer their own caſe to be concerned in it: and they underſtand the particulars too faſt, when it is the intereſt of their Brother, but if it be their own, they know nothing of it. It is written, *Thou ſhalt not tempt the Lord thy God*, and all the world conſented to the law ſince the promulgation: but yet many nations and many ages of Chriſtendome did admit the tryals of rights by duels, and of innocency by fire Ordeal: which was as direct a tempting of God as any thing next to deſperation it ſelf: and by this is ſufficiently reprov'd. If the labourer be worthy of his hire, then ſo is the Prieſt: if the Prieſt of the old Law, then alſo the miniſter of the Goſpel: which particular I chooſe to inſtance in, that by occaſion of it I may give caution againſt that which cauſes errour in the application of this meaſure and ſenſe of laws unto the Conſcience.

4. For becauſe all actions are inveſted and varied with many circumſtances, they who are concern'd in a particular with which they are willing to eſcape, think every new circumſtance to be a warrant great enough to exempt him from the general rule. Thus if a rule was given in the law of *Moſes*, they who would not have it drawn into conſequence in the Goſpel; obſerve that differing circumſtance of the divers laws: and think it anſwer enough to ſay, it was ſo in the *Law*, but what is that to the *Goſpel?* Now this anſwer is onely true when the law and the Goſpel have contrary meaſures in the ſame inſtance; that is, when the inſtance did not onely relate to the law of *Moſes*, but is againſt the analogy of the Goſpel. Thus, no unclean thing was to come into the preſence of the Lord: and therefore the leper or the polluted *in proſluvio ſanguinis* or *ſeminis* might not come into the Temple; but then if we argue; this is much more true in the Goſpel which is a ſtate of greater purity then the law; we can conclude nothing: becauſe the meaſures of legal and Evangelical purity are wholly differing; and therefore here the relation to the ſeveral ſtates and laws is conſiderable and makes a material difference: But when there is nothing in one that appropriates it to it ſelf,

and

and nothing in the other that excludes it, then the circumstance and relation alters nothing of the proposition: and so it is in the matter of maintenance for the Evangelical Minister.

But no circumstance can alter the question, unless it be a material ingredient in the very constitution of it, and changes the reason of the former usage. Thus when by the Commandement we are tied to give every one their own, if the owner be a madman, and in his fury demands his sword; although this particular be a specification of the General rule, yet it is altered by a circumstance which changes the reason of the law, or supposes it changed. * So when *David* brought his men to eat Shew bread in the dayes of need, the Priest ask'd if the young men had abstain'd from their wives; saying, That then they might: but he that shall argue from hence, that no man can receive the Sacramental bread but he that hath been continent in that instance, may be surely enough answered by telling him that such contacts did sometimes and to some purposes contract *legal impurities*, but *not Evangelical*, in which onely the purity of the Spirit is requir'd, or if also corporal were requir'd, yet such approaches under the protection of marriage are declar'd to be καθαρὰ ἁγιαν as great a purity as chastity its self, of which this is one kind. But when there is no cause of change of the ingredient in the article; if it be of the same Nature, though differing in extrinsecal or unconcerning circumstances, it is by way of specification included in the Rule, and is to be conducted by its measures.

5. 3. *Whatsoever is equivalent to the instance of the law, is also within its Sanction and constitution:* By [*equivalent*] (speaking Morally not Logically) I mean that which is inferr'd from the greater to the less affirmatively: or 2. from the less to the greater Negatively: or 3. from that which is equal to it both affirmatively and negatively. For thus laws are extended on all hands: The same law that forbids murder, forbids cruel thoughts and violent anger, whatsoever tempts to murder or is the beginning of it, or is in the Natural progression towards it. So on the other side, the law commands us to obey our Superiours (meaning the Spiritual) the same law though it there names them not, does more strongly command us to obey Princes: for they also *are over us and watch for the good of our souls, and must give an account for them.* Thus if Husbands must give honour to their wives, then wives must give honour much rather to their Husbands. If you may not steal out of my house you must not spoil my goods in them, much less may you fire my house and burne my goods too: if you must be faithful in little things, much more in greater things: if you must give your life for God, much rather must you give your goods: if you must not defile a Temple much less must you dishonour your bodies. Hebr. 13: 1

6. This also is to be extended to the proportionable obligation of *Correlatives.* For if the *Relative* be bound by the laws of Christ, then so also is the correlative, which Rule hath no exception but an explication of it is sufficient. For either the duty of relatives is equal, or unequal in degrees, and it is either in the same instance or in divers. If the instances be divers, they are in all cases expressed competently in the new Testament; as the duty that Husbands and Wives, that Children and Parents, that Masters and Servants, that Princes and Subjects owe to each other respectively, and they need not to be conducted by involution and consequence, for their duties are describ'd in distinct lines. But if the duty and instances be in the same kind but differ in de-

grees; then the measure of the degrees is to be conducted by proportion to the difference of persons by publick honesty and the sayings of wise and good men and the common usages of the best, and the measures of reason. But if they be the same in kind and degree; then the rule and measure of one is the rule and measure of both, though one onely be named in the law. And this is of use not onely in the equal instances of unequal relatives, but in all the instances of equals; as in Friendships, Societies, Guilds, Colleges, Exchanges, Traffiques and the like. There must be care taken that according to S. *Pauls* rule, *there must not be ἄνεσις ease, remission and advantage to one, and θλῖψις trouble, burden and disadvantage to the other*; but in relations that are equal, the duty and the expression must be so too; ever with this caution, that, If *the duty* be the same between Relatives it cannot follow that *the privileges* are the same. The husband & wife are equally obliged in the duties of love and justice: but they have not equal powers, neither can the woman put away the man, as the Man can the woman. For though man and woman are *pares in conjugio*, tyed to an equal love and an equal duty, yet they have not an equal power, nor an equal liberty, in government and divorces they are not equal.

7. But upon the account of this Rule the Christians have a most certain demonstration of the unlawfulness of Polygamy, or of having many wives at once: For our Blessed Saviour said, *He that puts away his wife unless it be for fornication, and marries another committeth adultery*: therefore he much more is an adulterer who marries another when his wife is not put away, and hath not committed fornication. But in this and the like cases we are to proceed by the measures of reason, and the common usages of laws.

8. 1. A law drawn from a law must be evidently and apparently in the bowels of it before such extraction, or else it must not be obtruded as the Sentence and intendment of the Lawgiver; *Obey them that have the rule over you*] is a plain Commandement: But if you infer therefore in all things that they say, deny your own reason, and submit your understanding; this follows not, because we are commanded to obey them onely in such things where they ought to rule over us, but that is not in our understandings, over which God alone is the Ruler, and those whom he hath sent are rational and authoriz'd Guides, they have power to teach and power to exhort, they are to doe any thing that can inform us and invite us to good; and we must follow them in all wayes that lead us to God: and that they doe we are to beleeve untill we have reason to beleeve the contrary: but because beyond these measures the law neither said nor meant any thing, therefore the obligation extends not so farre.

9. 2. Whatsoever is not in the letter of the law is then understood to be intended by the law when it is drawn from thence by a prime and immediate Consequence; in which there is no violence, nor artificial chains, nor devices of wit and labour. For laws ought to be but few, and they love not to be multiplyed without apparent necessity, and he that makes more then Christ intended, laies a snare for his own foot, and is cosen'd by his own argument: Christ commanded us that we should doe our alms and prayers in secret: from hence it follows, that all solemnities of pride, and all the dressings and adornements of our prayers design'd for vanity and publication are criminal: and under this prohibition comes all acts of proper specification. But then if I argue from hence further and say, Therefore it is not lawful to appoint publick

publick assemblies for prayer; or if it be yet it is not lawful to appear to men to be passionate and devout: and further yet, that private prayer is better then publick, and therefore that it is to be preferr'd before the publick, and therefore yet that we may safely *neglect the assembling of our selves together* for prayer, I argue foolishly, and cannot impose a necessity of obedience upon any. The law warrants me to goe no further but within sight of it: If I goe one step from her words, I am within the call of her voice: and my obedience can well be exacted, where it can be well proved, but never else. * It is in laws as it is in articles of beleef, to which we are oblig'd primarily, and afterwards to every thing that is certainly and immediatly drawn from thence. But if you goe beyond one consequence, there are so many certain but indiscernible fallibilities, so many intriques of fancy in the disputer, and so much unaptness in the hearer, that it is tenne to one they either doe not understand one another, or doe not understand the article, and so it is in laws; so long as we goe on in the strait line of its letter and known intention we commit no error, or can soon be reproved if we doe: but if we once double a point, we presently lose sight of the law: as appears in the instance now given in the precept of [*praying in secret:*] against which it is no objection to say, the consequents were not rightly deduced from the words of that precept. For I grant it; it is true they are not; but then I say it is also tenne to one but it will be so in any instance that shall be made fruitful with anfractuous and involv'd consequences: for that is it that I say: A mans reason is to be suspected when he goes a great way from this Rule; and we by our Logick shall become but ill Lawgivers. Whatsoever can certainly and truly be deduc'd from a law does as certainly oblige us as the instance that is nam'd, or the first specification of it, or the direct consequent; if it could be made as evident as it is certain: but becaufe it cannot, therefore it can oblige but in the degree of its clarity and manifestation, for that is to the remote instance, the same as publication is to the Commandement it self. But the precepts or laws of Christ are like the *Radix Prosapiæ*, the Grand Parent of a Family; from whom the direct descendants are for ever to be reckon'd to the Kinred in the strait and proper line: but when once it goes to the transverse and collateral, they not onely have no title to the inheritance, but every remove is a step to the loosing the cognation and relation to the chief house.

10. 3. In drawing consequent duties from expres laws the first presumption is for piety and the honour of God; that is, if the obligation be no evident, yet if it be evident that such obedience is for the honour of God, it is more probably to be suppos'd that that consequent was intended by the law of God, whom it so apparently serves. But where this or the like material ingredient is not, we are to presume for our liberty rather then for the multiplication of laws; becaufe that is charity and prudence, and both of them are very considerable in the constitution and interpretation of a law: But this is more full in the next rule.

Rule 4.

When any thing is forbidden, by the Laws of Jesus Christ, all those things are forbidden also which follow from that forbidden action, and for whose sake it was forbidden.

1. THIS Rule is of use in all laws, and is expressed to the same caution both in the Code of the Civil law, and in the Decretals, and the reason of it is, because the laws of any lawgiver being the effects of his greatest wisedome are designed to the best end, and are intended onely to operate towards and to effect that end: to this purpose laws are made to prevent evils, and though the evils are not alwaies named, yet against them it is that the laws are cautionary and provisionary; so that the evil is much more forbidden then that which brings it, or leads it in: because sometimes the evil instrument may be destitute of its evil effect, and therefore is in many degrees innocent and harmless, but if the evil be introduc'd it is all that which the laws were afraid of. And therefore *Aristotle* said right; τὸ δὴ τέλος ἑκάστης πολιτείας ἐστὶ λαυδαίμων· αἱροῦνται γὰρ τὰ πρὸς τὸ τέλος. we are to consider the end of every Republick, for they choose all things in order to their end; and the laws are made for publick defence, security, and profit, so it is in Religion and the laws of God. When we give almes we are commanded not to blow a Trumpet, so being warned against pride; but if without that instance or signification we be really proud, or value our selves upon that account, or despise our Brother as less holy, or oppress the Fatherless and Widdow, though without that pretence of holiness and the advantages of hypocrisy, they are greater Breakers of the Commandements then by their fond and fantastick proclamations of their charity. Thus we find in S. *Paul* an express prohibition, that *we should not make provision for the flesh to fulfil the lusts thereof*; that is, that we doe not take in great stowage of meat and drink, or use arts of sharpning the desire, or caressing the fancy to make the pleasures brisk and active, and the sense quick and pleased: but some there are that make temperance the instrument of pleasure, and the minister of Sensuality, and can be most pleased when they take the least care: and some mind the pleasures so as they will not tarry for the instruments or need them not; in these and the like cases if there were no distinct prohibition of that evil effect, yet it were sufficiently prohibited in the prohibition of the instrument. But because most of the evil effects of evil instruments are expresly and by name forbidden in the New Testament, this Rule is of use principally in the aggravation and condemnation of sin; and it means that every judgement and every evil we suffer which we were fortold of, and which is a foreseen effect of such an action, is to be imputed to us; and besides the direct sin we are also guilty of uncharitableness by doing that which we know will hurt us. God in the forbidding the sin commands us also to preserve our selves, and besides the sin is angry at the very death.

Eth. l. 1. c. 8.

Rom. 13. 14.

2. This Rule hath two limitations; 1. It is not to be understood of events contingent and accidental; but either *natural* and *proper*, or *foretold* and *threatned*, or at least *usual* and *noted*. He that maliciously sowes false doctrine in the Church

Church is answerable not onely for the Heresie but for the mischief that he intends, or is willing it should produce; but if another man to spite him or to hinder his fame shall set up a contrary Heresy, although this was the spawn of the first toad, yet because it was an equivocal production it shall be no otherwise imputed but to reproach him amongst men, to reprove his folly, and to be an argument of a speedy repentance.

3. But 1. Whatsoever effect is natural to a forbidden action is directly upon the same account. Thus, whosoever divides the Church, to him are imputed all the evil effects of Schisme which are its natural productions. If an imperious fooliſh woman by a continual inquietude, by her evil nature and a vexatious spirit so disturbe her husbands quiet and the ease of his soule and the comforts of his life that he also loose his health, she is not onely guilty of the violation of the laws of love and duty and meekness by which she is bound to God and to her husband, but is guilty of murder, or high injuriousness and uncharitableness according to the degree of the mischief which she sees impressed and growing upon him.

4. 2. Whatsoever event is *foretold* and *threatned* all that also is imputed to him that does the forbidden action to which it is threatned; and he is directly *felo de se* who by lust brings upon himself the rottenness of life far worse then the putrefaction of the grave, and he is a perfect prodigal of his fortune who by committing Sacrilege invites the worme and calls a spirit of unthriftiness and consumption to his estate; and he that grieves the Spirit of God and causes him to depart is guilty of that beggery and baseness of Spirit with which such evil usages of the holy spirit of God are often punished. For as God forbad some sins not onely for their own sakes, but that others which are their foul issues might be strangled in the womb; So he forbad all sins and laid direct and collateral restraints upon them, that man might not be unhappy, and extremely miserable. As therefore he who by one sin introduces another is guilty of both; so he who brings any evil which God graciously intended should not fall upon us, to him that evil is to be imputed, and that evil also does either directly or accidentally according to the nature of the Subject matter increase his guilt.

5. 3. If an evil effect be not either *natural*, or *threatned*, yet if it happens *ordinarily* and *be noted*, it is to be imputed to him who does that evil and forbidden action which does inferre it. The reason is because he wilfully sins against the purpose of the law, who will not prevent that evil which the law intendeth to prevent, and makes the law void and illusory, that is, destitute of its effect, and perfectly in vain as to that intention. Thus it is observed that the Fathers or the Mothers curse destroies the pleasures of a sin, and the gayety of a fortune, and the prosperity of an offending child: He therefore that shall doe a forbidden action which shall bring such a curse upon himself is not onely justly punished and is to impute that to himself perfectly and alone, but if upon his account evil descend upon his posterity or relatives, he is guilty of that evil and is a direct sinner in their punishment.

6. 2. The other limitation which I am to interpose is this; That the evil effects of an evil action are imputed but in proportion to the will and actual understanding, beyond the sphere of which whatsoever does happen, it is collateral and accidental both to the intention and to the time. A mans action

action hath a proper life of its own, and it leaves a permanent effect, or is productive of the same by a continuing emanation, this if it be foreseen, and considered and chosen is as imputable as if it were present, or immediate. But because a man can see but so farre, and hath a limited effluxe and impression by all his actions, he is not to be judged or condemned by any thing that shall happen beyond that proper extension; and if some Polonians or Transylvanians, English or French make ill use of the arguments of *Arius* it is not to be supposed that it shall be put upon *Arius* his account at the day of judgement, and that his or any mans damnation shall increase upon such accounts, which as they are beyond the intention of the man, or the efficacy of his action, so also beyond the distance of his prevision.

7. But for this that rule which is neerest to exactness is this, *No effect which happens after a mans death is imputable to him as a new sin.* So far as it was actually intended and design'd in his life time, or foreseen and not reversed so far it is imputed upon the stock of the present malice, not of the futureevent; his own act and his own intention for the present, and his actual design of the future are sufficient load upon him; but then because his act and his actual design could not live after his death, therefore nothing beyond the life of the man can be a new sin: because as he cannot actually or habitually will that event, so neither can he rescind it; If he cannot will it in any sense, it can in no sense be imputed, but if it could be willed, then it may also be refused and rescinded, which because it is impossible, therefore the increase of evil stands not at his door that occasion'd it, and cannot either will it any more or hinder it. This is that which is meant by our B. Saviour; *The night comes when no man worketh*, and whatsoever is beyond the *line of life* is also beyond the *line of malice*, and therefore cannot increase or begin upon a new score, when the whole stock is spent.

8. Lastly, that which proves all this, does also further explicate the Rule: Whatsoever event depends upon the will of another is so contingent in respect of him that first set the evil on work, that it is no longer upon his account then he actually or habitually desires it or indeavours: because now the evil hath a new cause and every emergent event is upon such a cause as cannot be, forc'd or indeed produc'd by any thing besides it self: and therefore to it self onely it is to be imputed, excepting where the malice of the first agent hath an actual or intended influxe into the second.

Rule 5.

The laws of Jesus Christ are the measures of the Spirit, and are alwaies to be extended to a Spiritual signification.

1. IT was a fair Character that was given of the Christians, πείθονται τοῖς ὡρισμένοις νόμοις, καὶ τοῖς ἰδίοις βίοις νικῶσι τοὺς νόμους. They obey the laws appointed for them, and by the piety and charity of their lives, excell even the measure of the laws themselves: For by what instance soever God would be glorified and by what charity soever our Brother can be releeved, and by what

Per Scriptor Diognetum.

what justice societies are established and continued, in all that they exercise themselves according to their whole power, and would do more if they could, and sometimes doe more then they are required: and oftentimes with better circumstances then are exacted, and alwaies with a mind more ready then their hand.

2. Humane laws can exact but the outward action; they neither can command the understanding, nor judge the will, because they cannot secure that nor discern this: and without these two their interest is well enough preserved. He that paies my money though it be against his will does me justice and is quit before the King, and if he dissembles, yet if he gives me good words, I cannot implead him of calumny or slander. Thus the Pharisees understood the law of *Moses*, and calld him innocent whom the laws could not charge; but therefore Christ calls them to new accounts. He that offers a pure lamb to God may dishonour him with a foul thought: and no sacrifice is pure by the skin and colour but by the heart and hand of him that presents it. Acts of external religion are publications of the Divine honours, but the heart does onely *pay them:* for there it is that God does sit judge alone; and though he hath given us bodies to converse below with a material world; yet Gods Temple is in heaven in the intellectual world, ; and the Spirit of a man is the *Sacrifice*, and his purest thoughts are *Oblations*, and holy purposes are the best *presents*, and the crucifixion of our passions is the best *immolation*, the onely beasts of sacrifice, and the Cross of Christ is *the altar*, and his passion is the *salt of all our sacrifices*, and his intercession makes the sweet *perfume*, and so *atonement* is made by the bloud of the Lamb, and we are accepted in our services, and our wills are crowned with the rewards of a holy obedience: If our hearts be right, our services will never be wanting, or rejected, and although our hearts can supply the want of external power, yet it is certain that nothing can supply the want of our hearts, and of good affections; these must be intire; for they are Gods peculiar portion, and therefore must not be divided. « *Plutarch* tells of *Apollodorus* that he dreamd he was taken by the « *Scythians*, flea'd alive and then cut in pieces and thrown in a boiling caldron, « where his heart leapt forth into the midst of all the little portions of flesh and « told them, *I am the cause of all this evil*: It was something like that saying of S. *Bernard, Nihil ardet in inferno nisi propria voluntas*; Nothing burnes in the Eternal flames of hell, but a mans heart, nothing but his will: for from *the heart proceed evil thoughts, adulteries, &c.* said our Blessed Saviour: but therefore God requires the heart, that is, that the principle of actions be secured, and the *principalis Domus* the chief house where God loves to dwell and reign be kept without theeves and murderers. * This then is the first sense of the Rule; That our obedience which Christ exacts is a sincere obedience of the will, and is not satisfied with the outward work. He that gives almes to the poor, and curses them in his heart: He that entertains an Apostle in the name of an Apostle, and grutches the expences of his dyet is neither charitable nor hospitable, and shall neither have the reward of an Apostle nor a Brother. In vain it is to wash a goblet if you mean to put into it nothing but the dead lees and vappe of wine; and a fair tomb of amber was too beauteous and rich an inclosure for *Martials* viper and his fly.

Matth 6. & Matth. 23.

De iis qui tardè à Numine puniuntur.

Matth. 12. 34. 15. 19.

Introrsum turpes, speciosæ pelle decora.

But this is a caution against Hypocrisy in the Moral sense of the words, but the legal sense of the Rule is, that in all laws, the first intention is, that

that God be ſerved with the will and the affections; and that theſe be never ſeparated from the outward work.

3. 2. But it is alſo meant that the whole deſign of the laws of Jeſus Chriſt is to be perfective of the Spirit, and his Religion is a Spiritual ſervice; that is, permanent and unalterable, vertuous and uſeful, Natural and holy, not relative to time and place, or any material circumſtances, nor integrated by corporal ſervices; The effect of which is this.

4. 1. The body of the Chriſtian ſervices does wholly conſiſt of Natural religion, that is, ſuch ſervices whereby we can glorifie God and repreſent our own needs; that is, prayers and Euchariſts, acts of love and fear, faith and hope, love of God and love of our Neighbour, which are all thoſe things by by which we can be like God: by which we can doe good, and by which we can receive any: and excepting the Sacraments whoſe effect is Spiritual, and the ſenſe myſterious, and the rites eaſie, and the number the ſmalleſt of all, there is in the digeſt of the Chriſtian law no Commandement of any external rite or ceremony.

5. 2. As it intends wholly an excluſion of the Moſaick ceremonies, ſo it will not admit a body of new and ſuperinduc'd ceremonies: for they are or may be as much againſt the analogy of the Spiritual law of Chriſt, as the other. The Ceremonies of the Chriſtian ſervices muſt be no part of the religion; but either muſt be the circumſtances of the Religion, or the imperate acts of ſome vertue: The Chriſtian muſt be in a place when he praies, and that place may be determin'd, and thither he muſt goe, and yet he may goe any whither elſe, his action is finite and muſt be done in time, and that time may be appointed him, and then he muſt doe it at that time, and yet he may doe it at any time elſe: If he be commanded by his Superiours to pray kneeling, he muſt kneel at the appointment of the law; and yet he may in his own devotions at another time fall upon his face or pray ſtanding. * But the Chriſtian and the Moſaick ceremonies thus differ:

1. The Moſaick rites were appointed by God; the Chriſtian onely by Men.

2. Conſequently they are neceſſary parts of the Religion, theſe are not.

3. The Moſaick Ceremonies did oblige every where; the Chriſtian onely in publick.

4. They were integral parts of the Religion; theſe are but circumſtances and inveſtitures of the Religious actions.

4. Theſe are to be done with liberty; but the Jews were in bondage under theirs.

5. Ours are alterable, theirs laſting as their Religion.

6. Theirs were many and burdenſome, ours ought to be few; of the number of which our Superiours are to judge by charity, and the Nature and common notices of things, and the analogy of the liberty and laws of Chriſtianity. But although there are no publickly deſcribed meaſures beforehand by which Princes or Prelates ſhall appoint the number of their ceremonies; yet there is in reaſon and common voices ſufficient to reprove the folly of him who becauſe he would have his body decently veſted ſhall wear five and twenty cloaks: *ſtola & tunica*; ſomething for warmth and ſomething for Ornament does well; but ſhe that wears ſo many adornements on her head

and girdle, that it is the work of half a day to dress her, is a servant of the tiar of her own head; and thinks neither her Soul nor her body, but her clothes to be the principal. By this I intend to reproove the infinite number of Ceremonies in the Roman Church; they are describ'd in a great book *in folio*,

Quem mea vix totum Bibliotheca capit.

my purse will not reach to buy it: but it is too like the impertinency of the busily idle women I now mentiond: and although by such means Religion is made pompous and apt to allure them that admire gay nothings, and fine prettinesses; yet then it also spends their religious passions and wonder in that which effects nothing upon the Soule. It is certain that actions of religion must be fitted with all those things which minister to decent and grave and orderly and solemn actions: but they must be no more but a just investiture or the religious action; and every thing can distract us in our prayers, and all the arts of watchfulness and caution are too little to fixe our intentions on them, and therefore whatsoever can become a proper entertainment of the mind, can also be a diversion of the devotion and a hindrance to the prayer. The sum is this; *Ceremonies may be the accidents of worship but nothing of the substance.* this they were among the Jews, that they may be amongst the Christians, *Time and place for the action: Habite and posture for the men*; thats all that religion needs, whatsoever else is grave and decent, and whatsoever else is orderly is not to be rejected: but if it be not these, it is not to be imposed: and when they become numerous or grievous they are to be removed by the same lawful hand that brought them in.

6. 3. In the Christian law all purities and impurities are Spiritual; and the soul contracts no religious charge without her own act: He that touches a dead body though he does not wash, may lift up pure hands in prayer; but if his Soul be unclean, no water, no ceremony will wash him pure without repentance:

O nimium faciles qui tristia crimina cædis
Tolli fluminea posse putatis aqua.

It had been well if in all ages this had been considered, and particularly in the matter of marriage: for when single life was preferred before the married for the accidental advantages to piety (especially in times of persecution) which might be injoyed there rather then here, some from thence extended their declamation further, and drawing in all the auxiliaries from the old law, began to preferre single life before marriage, as being a state of greater purity, and then by little they went on thinking marriage to be less pure till at last they beleeved it to be a state of carnality; and with the persuasions of men effected by such discourses were also mingled the discourses of Hereticks who directly condemn'd marriage, and that which descended from this mixture of doctrines some false, and the others not true, was a less honourable opinion of that holy institution on which *God* founded the first blessing of Mankind; and which *Christ* hath consecrated into a mystery, and the *Holy Spirit* hath *sanctified by the word of God and prayer*, and which is the seminary of the *Church*, and that nursery from whence the Kingdome of heaven is peopled. But if marriage be lawful, then he that lives in that state as he should, contracts no impurities, but is capable of any holy ministery, and receptive of any Sacrament, and fit for any imployment, and capable of any office, and worthy of

any

any dignity. Let them who have reaſon and experience to verifie their affirmative ſpeak all the great things of ſingle life that can be ſaid of it, and they may ſay much; for the advantages are many which are in a *ſingle life*, and in a *private ſtate*, and an *unactive condition*, and a *ſmall fortune*, and *retirement*; but then although every one of theſe hath ſome; yet a *publick ſtate*, and an *active life*, and a *full fortune*, and *publick offices*, and a *married life* have alſo advantages of their own, and bleſſings and vertues appropriate; and in all God may be equally ſerved, according as the men are, and the advantages neglected or improved But that which I inſiſt upon is, that to be *rich* is no ſin, and to be a *publick perſon* is no crime, and to be *marryed* is no impurity: and therefore to ſuſpect a diſproportion between this ſtate, and Spiritual actions or offices, is a jealouſie whoſe parent is hereſie, and pride and intereſt are its nurſes. Fornication is uncleanneſs, and concubinate and voluntary pollutions, and unnatural luſts are uncleanneſs and makes us unworthy to approach either to the Altar or to the railes, but marriage that fills heaven makes no man unfit for Churches or holy offices.

7. Upon this account I am alſo to take away thoſe ſcruples which have been thrown into mens Conſciences by ſome indiſcreet perſons, concerning involuntary pollutions; concerning which we find many abſurd ſtories of Friers, and of pretended temptations and ſpites of the Devil to hinder them from receiving the Holy Sacrament by procuring ſuch accidents to them before the ſolemnity: which perſuaſion was wholly upon this account that *the Spirit could be polluted by ſomething that is without*; and that the accidents of the body could defile the Soul. and this and the like were the accidents that could doe it. In which caſes it is without all peradventure true, that if the Soul conſented not before or after, neither Nature, nor Natures enemy are to be taken into the accounts of juſt diſpoſitions or indiſpoſitions to Spiritual miniſteries; if we ſerve God with our whole mind, and with all our heart, and doe what we can that is good, and avoid all evil that we can avoid, we can not be prejudic'd by what we cannot avoid.

8. 4. Although the Spirituality of the Goſpel excludes all ſhadows of ceremonies, and all bodily rites from being of the Subſtance of religion; yet this Spirituality does not exclude the miniſtery and ſervice of the body: for *the worſhip of the body may alſo be Spiritual*: to worſhip God with our bodies is λογικὴ λατρεία a *reaſonable*, and therefore a *Spiritual worſhip*. Thus when the eyes are lift up in prayer, when the bowels yerne with pity, when the hands are extended to fill the poor mans basket, the body ſerves the Spirit, and the Spirit ſerves God, and all is a Spiritual religion. But becauſe a *bodily religion* ſuch as *was* that of the *Jews* cannot be a *Spiritual religion* ſuch as *muſt* be that of the *Chriſtians*, and yet the ſervice of the body is alſo a part of the miniſtery of the Spirit; the Rule which can determine our Conſcience in the inſtances of this article is this:

Rom. 12. 1.

Whatſoever is an elicite or imperate act of vertue whether it be acted by the Soul or by the body is an act of Spiritual religion.

For in vertues there is a body and a ſoul; and all tranſient actions, or *ad extra* have ſomething of materiality in them which muſt be miniſtred to by the body. For therefore our Bleſſed Lord hath commanded mortification of our bodies, that our bodies may become Spiritual; and as acts of underſtanding

are

are ministred to by material Phantasms, so are the most spiritual acts of vertue, the love and the fear of God by sad spectacles, and gracious accidents, by feeling good and suffering evil; and as the actions of discerning sensitive objects are direct products of the Soul, but yet have for every one of the faculties a proper Organ in the body: So have the vertues of a Christian; they are acts and habits of a sanctified Soul, but to some the hand does cooperate, to some the eyes, and to some all the body, that as the graces of the Soul are commencements and dispositions to glory; so these spiritual ministeries of the body may nourish it and dispose the body to its perfect spirituality in the resurrection of the just.

8. But then these ministeries of the body, are then onely to be adjudged a spiritual service; when the soul and the body make but one intire agent, just as when the Soul sees by the eye, we say the eye sees; because that seeing is the action or passion of the Soul, which uses that Organ in her operation: so when the act of the body and Soul is but one and the same product of Religion, it is the Soul and the Spirit which is the principal agent, and from thence the action must be denominated to be *Spiritual.* But as when the eye is made to twinkle and look spritefully, or amorously, or is propos'd as a peece of beauty and does something of its own, but no Natural and proper ministery of the Soul, it is the instrument of vice or vanity and not of the Soul: so it is in the services of the body. if the body of our services be not the product of the Soul, and the imperate act of some vertue, or the proper specifick act of some grace, it can never be a part of the Religion. S. *Paul* hath given us perfect measures in this inquiry, *To give our body to be burned, to give all our goods to the poor, to have all faith,* are but the bodies and outsides or material parts of our Religion, and are good for nothing: but when all these proceed from charity, that is, from a willing, a loving Spirit, from a heart that is right to God, that is desirous to please him, then faith justifies, and giving gifts to the poor is true almes, and giving our bodies to the fire is a holy Martyrdome: and in this sense, dressing bodies to their burial is an act of a Spiritual grace, to adorn places of prayer, to build them and fit them for the service of God, is an act of Spiritual Religion, to minister to the poor, to dress children, to make them clean, to teach them their Catechismes, though bodily ministeries, are yet actions of the Spiritual Religion of a Christian. But from this, those things onely are excluded, which either are not the direct productions of a sanctified soul, or proper and prudent ministeries to some vertue. 1 Cor. 13.

9. 5. The Spirituality of the laws of Jesus Christ have yet one effect more: In all contrasts or interfering of laws, or Senses of the laws, the spiritual Sense is to be preferr'd, the spiritual action is to be chosen. By which it is not meant that ever there can be a dispute between the act of the mind and an act of the body; because as no man, and no thing can hinder the soul from willing or understanding, from loving or hating, from fearing or slighting, from valuing or neglecting its proper object: So the act of the body which is to minister to the Soul cannot stand in contradiction to that to which in the very nature of the thing it is subordinate: But the meaning is, when laws are to be expounded, that sense is to be chosen which more relates to an act of Grace, then that which is nothing but an external ministery: Thus, if the question be between the beautifying of a Chappel, or the rescuing of the poor from famine, although that might be an act of spiritual Religion, when Religion requires that specification of an act; yet becaus *that* hath less of the spirit in it then the other, and is nor requir'd in the presence of the other: *this* is to be adjudged the

more ſpiritual; becauſe it is the more holy. If the queſtion be between keeping of a Holy day, or doing charitable releefs to neceſſitous people, Chriſt in the inſtance of the Sabbath hath taught us to preferre Charity before external miniſteries; obedience before Sacrifice, mercy before Oblations; and did not onely make way for the taking off all mere bodily rites, but alſo for the expounding his own laws to the more ſpiritual ſenſe, that is, to the complyance with the moſt excellent and uſeful grace. So alſo for the expoſition of laws expreſs'd by material ſignifications: as cutting off the hand, plucking out the right eye, eating the fleſh of Chriſt, drinking his bloud, the fleſh, that is, carnal commentaries profit nothing: but theſe words are Spirit and Life: that is, they are neither to be underſtood nor practis'd in the material but Spiritual Senſe.

10. But as to the general conduct of the Conſcience in all theſe inquiries, the Rule is this: *All acts of vertue are to be preferred before the inſtruments of it: and that which exerciſes it, before that which ſignifies it; and the inward acts before the outward.* Thus when faſting is appointed in order to prayer, and yet both cannot be together, (for that by faſting we are diſabled to pray) there it is, that prayer muſt be preferred and faſting let alone. If corporal auſterities be undertaken for mortification of a rebellious body; if they hinder the body in the direct miniſteries to the Soul in other caſes, and become uncharitable, charity is to take place, and the auſteri ties may be ſupplyed by ſomething elſe. Now this Rule hath in it no exception nor variety but this: that it is to be underſtood in inſtances of corporal and ſpiritual acts that are of a diſparate Nature, and but onely accidentally ſubordinate, as faſting to prayer, keeping Holy-daies for the ſpecial miniſteries of Religion, lyings upon the ground to chaſtity, and the like: but in the actions external which are proper exerciſes of a vertue, the external which is directly, naturally or by inſtitution ſubordinate to the internal muſt never be omitted upon pretence of preferring the internal; becauſe they never can contradict one another, as it never can be diſputed whether the Soul or the eye ſhall ſee; for the Soul ſees by the eye and cannot ſee without it; and it may ſo happen in the external acts of Vertue miniſtring to the internal; as in ſome caſes a man is not charitable, unleſs he extends his hand to the poor, or lifts him out of a ditch, or guide him in the way. This inſtance and ſenſe of the Rule we learn from S. *James: If a Brother or a Siſter be naked and deſtitute of daily food, and one of you ſay unto them, Be ye warmed and filled, notwithſtanding ye give them not thoſe things which are needful to the body, what doth it profit?* That is, it is in vain to pretend internal charity without the external: in many caſes it cannot be without it, and when it can, it is becauſe there is no object for the act, or no poſſibility to doe it, and then the internal is to be done not by way of preference to the external, but in deſtitution of it and ſupply. But this will be yet further explicated in the following Rule.

James 2. 15.

RULE 6.

The imperate acts or outward expresions of the Vertue of one Commandement, must not contradict the elicite acts of another.

1. BY *imperate acts* I mean such which are commanded to be done by the interest of any vertue whatsoever, not proper to the vertues but such as may minister to it, or signifie it: Thus to deny the impure sollicitations of an unchast person is a proper, *an elicite act* of the vertue of chastity; but to lie upon the ground, to wear an hairen shirt, to use disciplines, to roll our naked body upon thornes, to sleep in snowes are *imperate acts*, that is, such which the vertue may chuse and exercise for its own advantage and interest; but such which are not necessary to any man in particular, nor to most men in the General; useful indeed in some cases but not necessary in any. To eat and drink sparingly and so as may minister to health and Religion is directly, that is, a proper and elicite act of temperance: but if a man spares to eat that he may have wherewithall to pay his debts, it is an imperate act of Justice, if to make himself healthful and strong to warre, it is an act of fortitude: the terms being so explicated, the measures of the Rule are these following particulars.

2. *The elicite acts of several vertues can never be contrary to each other:* as an act of Religion is never against an act of charity: chastity is never against justice, temperance is never against piety. The effect of which proposition is this, that one ought not to be pretended against another, and no piety to Parents can engage us to be drunk for their sakes, no pretence of Religion can make it lawful to neglect the care of our children, and to this purpose was that excellent precept of the Son of *Sirach, Let not the reverence of any man cause thee to sin*; it is no good manners to comply with our Superiours against our Supreme, and there is a time and a place for every vertue: but no time nor place, no cause or opportunity of doing against any. * It may so happen that the external actions of several vertues cannot consist, as sometimes I cannot pay the Gabel to the Prince; and the offering to the Priest; I cannot feed my child and the poor that begs; I cannot at some times tell truth and yet preserve the life of my Brother. Now when the two external elicite acts of vertue are inconsistent, the one must of necessity give place: the Rules of which are to be given more properly in another place*: but that which for the present I am to say, is this, that although the outward act cannot at all times be exercised and so must in certain cases be omitted, yet in no case can it be lawful for the interest of one vertue to doe against another. * Lib. 2.

3. 2. *The imperate acts of one vertue may contradict the imperate or instrumental and ministring acts of another:* as fasting when it is commanded by Religion may be against the advice of our Physitian, whom to observe it is sometimes a precept of prudence, sometimes of charity. Religion commands us sometimes to feast, and at the same time our charity bids us save our expence, that the poor may be fed the more plentifully. The reason of this is because all the imperate acts of vertue are external and must depend upon something from without: which because it can unavoidably be hindred, it

muſt needs alſo be, that it may inculpably be omitted. But then the Rule is this; Becauſe all *imperate acts of vertue*, are nothing in themſelves but wholly in relation to the vertue; that imperate act which miniſters to that vertue which is then to be preferred, muſt alſo be preferred: The reaſon is plain: The acceſſory muſt follow the nature of the principal: and therefore if we muſt now preferre the vertue, we muſt alſo preferre the inſtrument. The caſe is this; *Don Antonio Licente* of *Portugal* according to the Portugueſe and Spaniſh vanity, lov'd to ſee his wife painted; and one evening commanded her to appear with him ſo diſguis'd at a Maſque: ſhe having notice that a young Gentleman who was paſſionately in love with her would be there, and knowing that it would enflame his paſſion if ſhe were ſo adorn'd, inquires of her Confeſſor by what means ſhe ſhould reſtrain the folly of that *Inamorato*, and receives this amongſt other advices, that at no hand ſhe ſhould appear before him with any Artificial handſomeneſs: If ſhe obeyes her Husbands humor at that meeting, ſhe does hurt to a Soul, and gives fuell to an impure flame which already is too big: If ſhe does not obey him in that inſtance, her Husband will loſe the pleaſure of his fancy. But becauſe ſhe finds there is no other evil will be conſequent to her omiſſion, but that her Husband ſhall want a little Phantaſtick pleaſure; and the conſequent of her obeying him would be (for ought ſhe knew) that God might loſe a Soul: ſhe choſe to doe an act miniſtring to Spiritual charity and the chaſtity of her Brother, rather then an act that could be inſtrumental to nothing but the aiery pleaſure of her Husband: though otherwiſe ſhe had been bound to ſignifie her obedience to him by any thing that had been lawful.

4. But in this there is ſome variety, and ought to be ſome caution: For although the principal vertue is to be preferred not onely in it ſelf or in its proper and elicite acts, but alſo in its imperate and inſtrumental; yet this is to be underſtood to be true, when the inſtruments are in equal order to their reſpective vertues, or when there is no conſiderable difference. For if the action in queſtion miniſtring to the leſs principal vertue doe very much promote it, and the other which is inſtrumental to the more principal doe it but an inconſiderable advantage; the miniſtery of the leſs principal is in that caſe to be preferr'd; the reaſon is, becauſe by this omiſſion of an inconſiderable inſtrument the preſent duty is not hindred; but the ſervice of God is advantaged in the other, becauſe it is able to effect ſomething that is conſiderable toward the ſervice of God, which the other is not. The caſe is this; I knew a brave man who by a conſpiracy of evil perſons was condemn'd to die: He having of a long time us'd to faſt till the morning office was completed, becauſe he found faſting to be practis'd by Antiquity, and by Holy perſons in their more ſolemn offices, and thinking it might or did him ſome advantage in order to the bettering of his prayer; did think to doe ſo in the morning before his Execution. But then on the other ſide he conſidered that if he faſted he ſhould ſuffer a great diminution of Spirits, and poſſibly might be ſuſpected of puſillanimity if he did ſuffer a natural *lipothymy*, and therefore could not tell what he ſhould doe. He was ſure that to acquit himſelf before God in his duty was much to be preferr'd before the other of appearing brave and hardy before men, and therefore that his private prayers were more to be regarded then his publick confidence; and therefore was chuſing to faſt: but then he reflected on the actions inſtrumental again, and conſidered that his abſtinence from a little meat would bring but a very little and inconſiderable advantage to his prayers, but his eating would very much ſtrengthen

strengthen his heart and doe him a very considerable advantage that way, he chose this, because the other could easily be supplyed by the intenseness of his Spirit, his zeal, and his present necessity, but this could not but by Natural supplies and supportations of the strengths of the body.

5. But in the like cases, prudence and the conduct of a good guide is the best security to him that inquires with an honest heart and pure intention; and then the determination is best, and the Conscience is safest when both can be reconciled: but when they cannot, the former measures are to be observed.

6. 3. Those actions which can onely signifie or serve the interest of vertue by way of collateral advantage and indirect ministery must ever give place when they hinder the proper acts of any vertue whatsoever. Fasting must never be used when to fast is against charity: because charity is directly commanded, but fasting is relative to something else, and is not commanded for it self. Now in those things which are of a disparate Nature, a *principal* is ever to be preferred before an *instrument*, and an *act of duty* before an *act of prudence*, and *necessity* before *convenience*.

7. 4. But in things subordinate, that is, when the outward act is an elicite act of vertue, and truely subordinate to the internal, there can be no contradiction of one to the other; but the outward act and the inward must be both performed; that is, neither of them must be pretended in objection to the other; for they cannot hinder each other; but the outward can be hindered onely by something from without, but the inward by nothing. So that in order to Conscience, the Rule is this; *He that does an inward and elicite act of vertue, will certainly if it be in his power, doe the outward elicite act*: that is, the hand will move at the command of the Will, and the foot will goe if it be commanded, and if the Soul be charitable the hand will be apt to minister. For it is not well within, unless it be well without; that is, unless the vertue expresse it self in outward action where it can. And on the other side; *an outward elicite act of vertue can never goe alone*, unless it be the product of a good heart and of an inward elicite act, it is the imperate act of pride, or ambition, or a vitious fear, or covetousness, or something criminal, but neither the imperate nor the elicite act of any vertue whatsoever.

8. 5. Though the words of Art here used be not common, yet the practice of these Rules in the Questions of Conscience will not be difficult if we shall but with some diligence observe but the difference of external actions, and be able to discerne what outward actions are the elicite or proper, and which are the imperate and instrumental acts of vertue; because these being to give place to other acts by the events and constitution of their own nature, and the other never but when they are hindred from without, our duty will be easy when we once understand of what nature the outward action is. The Rule therefore for the direction of our Conscience in this affair is this; *Those actions which either are commanded by name and in particular, or by direct and proper consequence from the General, they are the elicite and proper actions of a vertue.* Thus to give alms is a proper and elicite act of charity: to condemne the Criminal is a proper act of justice: To speak well of all men behind their backs, so farre as we can with truth, is an elicite act of equity. But whatever is of that nature that it can be done innocently and yet not be an act of vertue properly, that onely is instrumental to a vertue, and is an imperate action. Thus

to invite rich men to a feaſt may be done prudently and without Scruple, but he that does ſo and no more ſhall have no reward in heaven for it: but yet to invite rich men to a banquet may miniſter to friendſhips or peace, or it may obtain releef to a poor oppreſſed Brother, and then it may be a good inſtrument of that vertue to which by accident or the perſonal intention of the man (not the Natural order or intention of the thing) it does miniſter.

* By the ſerious obſervation of this difference of acts we may be guided in many caſes of Conſcience and in the interpretation of ſome of the Laws of our Religion.

RULE 7.

When any thing is forbidden by the Lawes of Chriſt, all thoſe things alſo by which we come to that Sin are underſtood to be forbidden by the ſame Law.

1. IN this there is one great difference between Poſitive and Negative laws. When any thing is commanded or enjoined, to take or uſe any inſtrument to it is left to our choice, and is matter of prudence and not duty: As when we are commanded to mortifie the luſts of the body: we are not commanded to lie upon the ground, or to maſticate Rhubarb, or to goe barefoot, or to put on S. *Francis* his girdle upon the bare body: as we find theſe actions aptly inſtrumental to the duty, and fitted to the perſon, ſo we may uſe them: but if the fear of Hell, or the hopes of Heaven can mortify us ſufficiently to all the purpoſes of the Spirit, or if he who is married be not tempted, or he who is unmarried be by Nature abſtinent, or by diſeaſe and imperfection, theſe inſtruments are out of uſe, as to theſe purpoſes. For here nothing is under command but the duty it ſelf; and if by any good inſtrument it be done, it is all one as to the law. * But in Negative precepts the caſe is otherwiſe: for the crime is not onely to be abſtained from, but every inſtrument of it, every path that leads to it, whatſoever can begin or promote it: and the reaſon is, becauſe all theſe things are of the ſame nature with the ſin; and therefore although every thing that is or may be good is not commanded, yet every evil is forbidden. One fly can ſpoil a pot of Ointment: But this we are plainly taught by our Bleſſed Saviours Sermon in the Mount; where he expounded the precepts of the Ancients, not only to ſignifie the outward act, but the inward deſire: and in this our Bleſſed Maſters law is much more perfect then the Digeſt of *Moſes*; for although there alſo God forbad Concupiſcence; yet it was onely inſtanc'd in the matter of Covetouſneſs; and was not extended to the other inſtances of duty; but in Chriſts law, *Non concupiſces* is the *apex juris*, it is the Conſervatory and the laſt duty of every Commandement

Nam ſcelus intra ſe tantum qui cogitat ullum
Facti crimen habet.——

He that thinks a luſtful thought hath broken a Commandement; and if the eye be full of Adultery, or the mouth be impure, or the hand be unclean, the whole man is polluted before God, and ſtands guilty of the breach of the main law. *Exercetur, atque aperitur opere nequitia, non incipit.*

The

The deed tells the heart, and opens the shop of crimes, but they begin in the heart, and end in the outward work.

2. But in this there is no difficulty: for God being Lord of all our faculties, and the searcher of hearts, and the judge of our thoughts, he must be served by all, and he searches that he may judge all, and judges that he may punish or reward all. But the Rule is onely thus to be limited: that in those sinnes whose being criminal is wholly relative to persons with whom we converse; every thought is not a sin unless that thought also be relative. As he sins not that thinks a lie, if he resolves not to abuse any body with it, and a man may love to please himself with false news, and put on a fantastick confidence and persuasion of the truth of what he would fain have to be true; though to his reason it seem improbable. In this there is some folly, but no malice: but to lie is a relative action; and if he have but a thought or purpose to abuse the credulity of any one, then that thought or purpose is a lie; that is, it is of the same nature with a lie, and therefore of the same condemnation. The case is the same in all things which are forbidden onely because they are uncharitable or unjust to my Brother, but are permitted when they are otherwise.

3. 2. But the intention of the Rule is more: For it means that all the addresses and preparations to Criminal and forbidden actions are also forbidden. Thus because Christ gave a law against fornication he hath also forbidden us to tempt any one to it by words, or by wanton gestures, or lascivious dressings, and she fornicates that paints her face with idle purposes.

4. 3. It is also meant concerning temptations to a forbidden instance; for they also are forbidden in the prohibition of the crime: which is to be understood with these Cautions:

5. 1. If the temptation be in a Natural and direct order to the Sin, it is forbidden, where the sin is. Thus because lusts of the flesh are prohibited, it is also our duty, that we doe not make provision for the flesh to fulfill the lusts of it. Eating high, and drinking deep are actions of uncleanness, as well as of intemperance: and in the same proportion also is every thing that ministers directly to the lusts of the lower belly though in a less degree; as lying soft, studying the palate, arts of pleasure and provocation, inticing gestures: with this Caution;

6. 2. If the effect be observed in these less and lower instances then they are directly criminal: for whatsoever did bring a sin and is still entertain'd knowingly and choosingly, is (at least by interpretation) chosen for the sins sake: but at first and before the observation it may enter upon another account; which if it be criminal, to that these instances are to be reckoned, and not to that sin to which they minister unknowingly.

7. 3. Every temptation is then certainly to be reckoned as a sin when it is procured by our own act; whether the temptation ministers to the sin directly or accidentally: for if we chose it, it can have no excuse: *tute quod intristi tibi comedendum est:* and unless the man be surprised, his chosing of an instrument to sin withal, is not for the sake of the instrument, but for its relation: and this is true, although the usual effect does not follow the instrument. For there is sometimes a fantastick pleasure in the remembrances of sin, in the approaches

approaches of it, in our addreſſes to it: * and there are ſome men who dare not act the foul crime, who yet love to look upon its fair face; and they drive out ſin as *Abraham* did *Iſmael* with an unwilling willingneſs (God knows) and therefore give it bread and water abroad though no entertainment at home and they look after it, and are pleaſed with the ſtories of it, and love to ſee the place of its acting,

Hic locus, hæc eadem ſub qua requieſcimus arbor
Scit quibus ingemui curis, quibus ignibus arſi.

And they roll it in their minds: now they that goe but thus farre and love to tempt themſelves by walking upon the brink of the river, and delight themſelves in viewing the inſtrument of their ſin, though they uſe it no further, they have given demonſtration of their love of ſin when they make ſo much of its Proxy.

8. * But there are others who have great experience of the vanity of all ſin and the emptineſs and diſſatisfaction that is in its fruition, and know as ſoon as ever they have enjoyed it, it is gone, and that there is more pleaſure in the expectation then in the poſſeſſion; and therefore they had rather goe towards it then arrive thither; and love the temptation better then the ſin: Theſe men ſin with an excellent Philoſophy and wittineſs of ſinning; They love to woe alwayes and not to enjoy, ever to be hungry and ſitting down to dinner, but are afraid to have their deſires filled, but if we conſider what the ſecret of it is, and that there is in theſe men an immenſe love to ſin, and a perfect adheſion to the pleaſure of it, and that they refuſe to enter leſt they ſhould quickly paſs thorough, and they are unwilling to taſt it, leſt they ſhould eat no more, and would not enjoy, becauſe they will not be weary of it; and will deny any thing to themſelves even that which they moſt love, leſt for a while they ſhould loath their beloved ſin; we ſhall ſee reaſon enough to affirme theſe men to be the greateſt breakers of the Laws of Jeſus Chriſt; though they onely tempt themſelves, and handle the inſtruments of ſin, and although theſe inſtruments ſerve nothing but the temptation, and the temptation does not ſerve the ſin, whether in its own nature it is deſign'd.

9. 4. If the temptation be involuntary, then it is not imputed: and yet this is to be underſtood with this proviſion; that it be neither choſen directly, nor by interpretation; that is, that it be not entred into by careleſſneſs, or confidence, or choice. If it be by choice, then it is directly againſt that law of Chriſt which forbids that ſin whither the temptation leads; but if it enter by careleſſneſſe or confidence, it belongs not to this Rule; for although every ſuch temptation is againſt the laws of Chriſt, yet they are not under the ſame law by which the effect is prohibited, but unlawful becauſe they are againſt Chriſtian prudence and Chriſtian charity.

RULE 8.

The suppositive propositions with the supervening advices of our Blessed Saviour are alwaies equivalent to matter of duty, and are by interpretation a Commandement.

1. THIS Rule is intended as an explication of the precepts of prayer, alms, and fasting: all which our Blessed Saviour in his Sermon upon the Mount expressed by way of supposition; which way of expression although it be not a positive and legal expression of a Commandement, yet it either supposes a preceding law, or a confirm'd practice, or at least that those to whom such words are directed are willing and loving and obedient people, understanding the intimations and secret significations of the Divine pleasure. When ye give almes, doe not blow a Trumpet, said our Blessed Saviour. When ye pray stand not in the corners of the streets, when you fast doe not disfigure your faces. Now concerning prayer and alms there is no difficulty, because our Blessed Lord and his Apostles have often repeated the will of God in expres Commandements concerning them, but because of fasting he hath said much less, and nothing at all but these suppositive words, and a prophecy that his Disciples should fast in the daies of the Bridegrooms absence, and a declaration of the blessed effects of fasting; this hath a proper inquiry and a special difficulty, whether or no these words have the force of a Commandement.

2. Concerning which we may take an estimate, by those other expressions of our Lawgiver concerning almes; which we without further scrutiny know to be Commandements, because in other places they are positively expressed: and therefore if we can find it so concerning fasting, this inquiry will be at an end. Now concerning this I will not onely observe that the three great heads and Representatives of the law, the Prophets, and the Gospel, Christ, *Moses* and *Elias*, who were concentred and inwrapped in one glory upon mount *Tabor* were an equal example of fasting, which in their own persons by a Miracle was consigned to be an example and an exhortation to fasting to all ages of Religion, and each of them fasting fourty dayes upon great occasions told to them who have ears to hear, what their duty is in all the great accidents of their life: but that which is very material to the present inquiry is, that this supposition of our Blessed Lord, [When ye fast] was spoken to a people who made it a great part of their Religion to fast, who plac'd some portions of holiness in it, who had received the influence of their greatest, their best, their most imitable examples for religious fasting; and the impression of many Commandements not onely relative to themselves as bound by such a law, but as being under the conduct of Religion in general. Such was the precept of the Prophet *Joel*, *Thus saith the Lord, turn ye even to me, with all your heart, with fasting and with weeping and with mourning.* Now whatever the Prophets said that related to Religion abstractedly, or morality, all that is Evangelical (as I proved formerly in this Book:)* Besides there was an universal solemn practice of this exercise, under *Joshua* at *Ai*, under the Judges at *Gibeah*, under *Samuel* at *Mizpah*, under *David* at *Hebron*; fasts frequently proclamed, frequently instituted; at the preaching of *Jeremy* and *Daniel*, of *Joel* and

Joel 2. 12.

* Cap. 2. Rul. 5.

and *Zechary*; before the captivity, under it, and after it; in the dayes of sorrow and in the dayes of danger, in their religion solemn and unsolemn, after they had sinned and when they were punished, at *Jerusalem* among the Jews and at *Nineveh* amongst the Gentiles: Now because it is certain that all this could not be confin'd to the special Religion of the Jews, but was an expression and apt signification and instrument of a Natural religion our B. Saviour needed not renew this and efforme it over again into the same shape, but had reason to suppose the world would proceed in an instance whose nature could not receive a new reason and consequent change in the whole.

3. This heap of considerations relates to that state of things in which our Blessed Saviour found this Religious exercise at his comming. Now if we consider what our Blessed Savior did to it in the Gospel; we shall perceive he
1. intended to leave it no less then he found it: for first, he lik'd it and approv'd it, he allowed a time to it, a portion of that by which God will be serv'd; and he that gave us time onely to serve him and in that to serve our selves, would
2. not allow any time to that by which he was no way served. 2. We cannot tell why Christ should presuppose that a thing was to be done, which God did not require to be done: such things Christ used to reprove, not to recommend, to destroy not to adorne by the superfetation of a new Com-
3. mandement. 3. These words he speaks to his Disciples in the promulgation of his own doctrine, in his sermon upon the Mount, which is the great institution and Sanction of the Evangelical doctrine, and therefore left it recommended and bound upon them by a new ligature, even by an adopti-
4. on into the Everlasting Covenant. 4. He represents it equally with those other of prayer and almes, which in this excellent digest of laws he no otherwise recommends, but as supposing men sufficiently ingaged to the practice of these duties: when ye pray enter into your chamber, and when ye pray
5. say *Our Father*, and *when ye fast*, be sincere and humble. 5. He that presupposes does also establish; because then one part of the duty is a postulate and a ground for the superstructure of another; and is sufficiently declar'd by its parallels in the usual style of Scripture. *My Son when thou serveſt the*
1 King. 8. 38. *Lord prepare thy soul for temptation*, So the Sonne of *Syrach*: and again, *when thou heareſt forgive*: and again, *when thou art afflicted call upon him*, which formes of expression suppose a perfect persuasion and accepted practice of the duty; and is more then a conditional Hypothetick: *Si jejunatis* hath in it more contingency, but *Cum jejunatis* is an expression of confidence and is gone
6. beyond a doubt. 6. That exercise which Christ orders and dispose, which he reformes and purges from all evils superinduc'd appendage is certainly dress'd for the Temple and for the service of God; now this of fasting Christ reforms from its being abus'd as he did prayer and almes; and therefore left it in the first intention of God and of a Natural Religion to be a service of God, like that of bowing the head, or going to worship in the houses of prayer.
7. 7. To this duty he promises a reward: Our heavenly Father that seeth thy fasting in secret shall reward thee openly: that is, its being private shall not hinder it from being rewarded; for God sees it, and likes it, and loves it, and will reward it.

4. Now for confirmation of all this, and that this was to this purpose so understood by the Disciples and followers of our Lord: S. *Paul* was *in fast-*
2 Cor. 11. 27 *ings often*; and this was a characteristick note of the Ministers of the Gospel:
2 Cor. 6. 4. *In all things approving our selves as the Ministers of God in much patience. . . . in watchings*

watchings, in fastings: and when *Paul* and *Barnabas* were ordained Apostles of the Uncircumcision, they fasted and prayed and laid their hands on them and so sent them away; and esteemed this duty so sacred, that S. *Paul* permitted married persons σχολαζειν to appoint vacant times from their endearments that they may give themselves to fasting and prayer: and the Primitive Christians were Generally such Asceticks in this instance of fasting, that the Ecclesiastical story is full of strange Narratives of their prodigious fastings. Acts 13. 3, 4. 1 Cor. 7 5.

5. Lastly, fasting is an act of many vertues: it is an elicite and proper act of *temperance*, and of *repentance*, aud of *humiliation*, and of *mortification* of the flesh with its affections and lusts; it is an imperate and instrumental act ministring to prayer, and is called a service of God: So the good old Propheteſs served God night and day in fasting and prayer: and that which serves God, and ministers so much to religion, and exercises so many graces, and was practis'd by the faithful in both Testaments, and was part of the Religion of both Jews and Gentiles, and was the great solemnity and publication of repentance, and part of a Natural religion, and an indearment of the Divine mercy and pitty; that which was alwaies accounted an instrument of impetration or a prevailing prayer; which Christ recommended and presuppoſed, and adorned with a cautionary precept and taught the manner of its observation, and to which he made promises, and told the world that his Heavenly Father will reward it; certainly this can be no less then a duty of the Evangelical or Christian Religion. Luke 2.

6. But yet although it be a duty, yet it is of a Nature and obligation different from other instances. When it relates to Repentance, it is just a duty, as redeeming captives is commanded under the precept of mercy: that is, it is the specification or positive exercise and act of an affirmative duty: it is a duty in it self, that is, an act whereby God can be served; but it becomes obligatory to the man by other measures, by accidental neceſſities and personal capacities, in time and place, by publick authority and private resolution. Not that a man cannot be said to be a true penitent unless he be a faster: but that fasting is a proper, apt, natural, usual, approved expression, and an exercise of repentance: it is more fitted to the capacities of men, and usages of Religion then any other outward act, it hath some Natural and many collateral advantages more then other significations of it; and it is like bowing the head or knee in prayer, and is to repentance the same outwardly as sorrow is inwardly, and it is properly the penance or repentance of the body, which becauſe it hath sinned must also be afflicted, according to that of S. *James, Be afflicted, and mourn and weep, let your laughter be turned to mourning, and your joy to heavineſs: Humble your ſelves in the ſight of the Lord:* that is, repent ye of your sins: for all these expressions signifie but this one duty, and this great exercise and signification of it is so much a duty in the General, that it cannot be omitted without good reason, nor then neither unless it be supplied by something else, in its just time and circumstances.

7. In order to other ends fasting is to be chosen and preferred before instruments less apt, less useful, less religious, that is indeed, before the imperate and ministring acts of any kind whatsoever; for it is the best in many respects and remains such unless it be altered by the inconveniences or healthlesness of the person.

RULE

Rule 9.

The inſtitution of a Rite or Sacrament by our Bleſſed Saviour is a direct law, and paſſes a proper obligation in its whole integrity.

1. THIS Rule can relate but to one inſtance; that of the Holy Sacrament of Chriſts body and bloud; for although Chriſt did inſtitute two Sacraments, yet that of Baptiſme was under the form of an expreſs Commandement, and therefore for its obſervation needs not the auxiliaries of this Rule. But in the other Sacrament the inſtitution was by actions, and intimations of duty, and relative precepts, and ſuppoſitions of action; as *quoties feceritis*, and the like. Now whether this doe amount to a Commandement or no, is the inquiry; and though the queſtion about the half Communion be otherwiſe determinable, yet by no inſtrument ſo certain and immediate as this.

2. In order therefore to the Rule of Conſcience in this inſtance I conſider, that an inſtitution of a thing, or ſtate of life by God, and by his Chriſt is to be diſtinguiſhed from the manner of that thing ſo inſtituted. When a thing is inſtituted by God it does not equal an univerſal Commandement; but obtains the force of a precept according to the Subject matter and to its appendant relations. Thus when God inſtituted marriage, he did not by that inſtitution oblige every ſingle perſon to marry: for ſome were Eunuchs from their Mothers wombs, and ſome were made Eunuchs by men; and ſome make themſelves Eunuchs for religious and ſevere ends, or advantages of retirement and an untroubled life. But by this inſtitution (ſay the Doctours of the Jews) every man was at firſt obliged, and ſo they are ſtill, if they have Natural needs or natural temptations; But becauſe the inſtitution was relative to the publick neceſſities of Mankind, and the perſonal needs of a man, therefore it was not an univerſal or unlimited Commandement; but onely ſo farre as it did miniſter to the neceſſary end, ſo farre it was a neceſſary Commandement. It was not inſtituted for Eunuchs; but for whom it was inſtituted, to them it was a remedy againſt ſin, and the ſupport of the world, and the original of Families, and the ſeminary of the Church, and the endearment of friendſhips, and the parent of ſocieties, and untill the neceſſities of the world were abated, and the needs of ſingle perſons were diverted, or broken in pieces by the diſcipline of a new inſtitution, it was eſteemed infamous, and it was puniſhable not to marry.

3. But then if we conſider the manner of this thing ſo inſtituted, it is certainly a perfect, unalterable, and univerſal Commandement. For although every man in every circumſtance be not by vertue of the inſtitution oblig'd to marry; yet if he does marry, by the inſtitution he is tied up ſtrictly that at no hand he muſt prevaricate the meaſures and limits of the inſtitution. He that marries muſt marry by that Rule and by no other. He muſt marry one woman onely while ſhe is alive: he muſt leave Father and Mother and adhere to her, he muſt treat her with charity and honour, he muſt uſe her by the limits of Nature and ſobriety, he muſt make her the Mother of his family, he

he must make her serve no desire but what is Natural, and so in every thing is he limited to the first institution.

4. The reason is, because a Divine institution is the whole cause, and the intire beginning, and the onely warranty and legitimation of the state or of the action: and therefore whatsoever is otherwise then the institution, is not from God, but from our selves: So that although the institution does not oblige us in all cases to doe the thing at all; yet in all cases it obliges us to doe it in the manner it is appointed: and in this sense the word is used in good Authors. *Nam is quanquam triennium nutricibus dederit, tamen ab illis quoque jam formandam quàm optimis institutis mentem infantium judicat*, said *Quintilian.* L. 1. c. 2. The understanding even of infants is from the very beginning with the best institutions: that is, with the best laws and precepts of manners. *Institutiones sunt præceptiones quibus instituuntur & docentur homines*, said *Laurentius Valla:* the precepts by which men are taught what to doe are called institutions: so *Quintilian* inscrib'd his books, *de institutione oratoria*, and *Lactantius* wrote Institutions; that is, Commentaries on the precepts and laws of Christianity. But it hath in it this peculiarity of signification, that the word [institution] does signifie properly Rules and precepts of manners; properly the measures of practice, or Rules teaching us what we are oblig'd to doe. So that institution does not directly signifie a Commandement, but it supposes the persons obliged, onely it superaddes the manner and measures of obedience. *Cùm ad literas non pertineat ætas, quæ ad mores jam pertinet, &c.* saies *Quintilian*; since that age is not capable of letters, but is capable of manners, they are to be efform'd by the best and noblest institutions. Ubi supra.

5. And thus it is in the matter of the Sacrament as it is in the matter of marriage. All men are not alwaies obliged to receive the Sacrament; for the institution of it being in order to certain ends, and in the recipients certain capacities and conditions requir'd by way of disposition, there can be but a relative and therefore a limited Commandement of its reception: but to them who do receiv it, the institution is a perfect indispensable Commandement for the manner in all the essential parts, that is, in all which were intended in the institution. Now whence I argue,

> Whatsoever is a part of Christs institution of the Sacrament is for ever obligatory to all that receive it.
> But the Sacrament in both kinds is a part of the institution of the Sacrament, Therefore,
> It must for ever oblige all that communicate or receive it.

The first proposition relies upon the nature of Divine institutions, which giving all the authority and warranty to the whole action, all its moral being and legitimation, must be the measure of all the natural being, or else it is not of God, but of man. *Indignum dicit esse Domino qui aliter mysterium celebrat, quàm ab eo traditum est. Non enim potest devotus esse qui aliter præsumit quàm datum est ab Authore*, saith S. *Ambrose.* S. *Paul* saith, he is unworthy of the Lord who celebrates the mystery otherwise then it was delivered by him. He cannot be devout who presumes otherwise then it was given by the Author: and to this purpose are those severe words of the Apostle, *Si quis Evangelizaverit præter quod accepistis*, if any man preach any other Gospel then what ye have received, let him be Anathema, that is, from Christ we have received it, 1 Cor. 11. Gal. 1.

and ſo as we receiv'd it, ſo we deliver it, and ſo it muſt deſcend upon you without the ſuperfetation of any new doctrine.

6. And indeed how is it poſſible to pretend a tradition from Chriſt by the hands of his Apoſtles, and the miniſtery of the Church if we celebrate it otherwiſe then Chriſt deliver'd it? *Religioni noſtræ congruit, & timori, & ipſi loco, & officio Sacerdotii noſtri cuſtodire traditiones Dominicæ veritatem. Et quod prius videtur apud quoſdam erratum, Domino monente corrigere, ut cum in claritate ſua & majeſtate cæleſti venire cœperit, inveniat nos tenere quod monuit, obſervare quod docuit, facere quod fecit*; they are the excellent words of S. *Cyprian*, and perfectly concluſive in this Article. For there were ſome who out of an impertinent pretenſion of ſobriety would not uſe wine, but water in the Sacrament; the inſtrument by which S. *Cyprian* confutes their folly, is a recourſe to the inſtitution. See, how did Chriſt deliver it: *inventimur non obſervari à nobis quod mandatum eſt, niſi eadem quæ Dominus fecit, nos quoque faciamus.* Unleſs we doe what Chriſt did, we doe not obſerve what he commanded; plainly implying that the inſtitution it ſelf was a Commandement: *we muſt hold what he admoniſhed, we muſt obſerve what he taught, we muſt doe what he did.* No: every thing done at the time of the inſtitution, but *every thing of it.* For (ſaies he) Chriſt did inſtitute it after Supper, but we in the morning. But *every thing by which he did ſignifie what he did exhibite, and exhibite what he did promiſe, every ſuch thing was a part of the inſtitution*, and cannot be changed. And therefore S. *Paul* when he inſtructs the Corinthians in the myſtery of the holy Euchariſt, uſes no demonſtration of the Rites but this. *I have received this of the Lord:* and *This I have delivered unto you. Other things I will ſet in order when I come*; That is, whatſoever I did not receive from the Lord Jeſus; whatſoever was not of his inſtitution, I have power to diſpoſe of; but not of any thing which he appointed.

Ad Cæcil. l. 2. ep. 3.

1 Cor. 11. 23, 24.

7. Now there is no peradventure, but the Apoſtles underſtood this inſtitution to be a Commandement, ὅτι παρέδωκαν αὐτοῖς τοῦ Ἰησοῦ· ſaid *Juſtin Martyr*, ſpeaking of the diſtribution of the Bread and Wine, ἑκάστῳ τῶν παρόντων *to every one that was preſent*, he ſaies that *the Apoſtles did deliver that Jeſus ſo commanded them.* * For what Commandement have we to conſecrate in bread and wine? What precept is there that the conſecration ſhould be by a Prieſt? Nothing but the inſtitution. For if it be ſaid that Chriſt added the preceptive words of [*Hoc facite,*] *This doe in remembrance of me.* I reply, He did ſo. But [*Hoc facite*] is no Commandement of it ſelf, but when it is joined with, *in mei commemorationem, in remembrance of me*; That is, when ye remember me, then doe thus: So S. *Paul* more expreſsly, *This doe as often as ye drink it in remembrance of me.* Therefore *Hoc facite* will be but ill expounded to be a Commandement for the Prieſts conſecration, unleſs it borrow all its force from the whole inſtitution: for it plainly ſaies onely this; when ye remember me, then doe this which ye ſee me doe. But *hoc facite* does not ſignifie any particular Commandement, but that which is relative to the whole action; and all the diſcourſes of Mankind, can never extract any other ſignification.

Apol. 2.

1 Cor. 11. 25.

8. But 2. The Apoſtles receiv'd an expreſs Commandement; *Drink ye all of this.* If therefore Chriſt inſtituted the Sacrament for the whole Church, and that they were the repreſentatives of the whole body of Chriſt,

Christ, then all the whole Church when they communicate, are bound by the Commandement to receive the Chalice. But if they did not represent the whole Church, then where shall we find a warranty that the people may receive at all? For if they receiv'd onely in the capacity of Clergy men, then the institution extends no further; and it is as much sacrilege for the people to eat and drink the Symbols as to offer at the consecration. But if they receiv'd in the capacity of Christians onely, then they receiv'd the Commandement of drinking in the chalice, for themselves and for all Christians.

9. And indeed the Apostles were not then Priests. True, say they of the Church of *Rome*, they were not; but *James Payva* a Portuguese in the Councel of Trent talked merrily, and said that the Apostles as *Laicks* received the Bread, but then when Christ said, *Hoc facite*, *this doe*, he made them Priests; and then gave them the Chalice as representatives of the Clergy, not of the people. But as merry a fancy as this seem'd then, it was found to be the best shift they had, and therefore upon better advice it was followed by *Canisius*, *Suarez*, *Bellarmine*, and divers others. But if this be stood upon, besides that it must be crusht to nothing by the preceding argument, the pretence it self crosses their own devices. For if it be said that the Apostles were made Priests by *Hoc facite*, spoken before the institution of the Chalice, then *Hoc facite* does not signifie, *Offerte Sacrificium*, and consequently cannot make them Priests, that is (with them) *Sacrificers*, For by their own doctrine to offer both kinds is necessary to its being a Sacrifice. Since therefore the first *Hoc facite* (which indeed is the onely one mention'd by the Evangelists) can but relate to the consecrating of the Bread, as the second (mention'd by S. *Paul*) does to the consecrating of the Chalice, either they are Priests without a power of Sacrifice, or the Sacrifice is compleat without the Chalice, or else they were not then made Priests when Christ first said, *Hoc facite*; and if they were by the second: besides that a reason cannot be fancied why the same words should, and should not effect so differing changes without difference in the voice, or in the action, or in the mystery, besides this I say, It is plain, that Christ reach'd the cup to them commanding them all to drink before he made them Priests, that is, they receiv'd the Chalice as representatives of the people: for being Laicks, at least till all that Ceremony was done, they did represent the people; and consequently as such, receiv'd a Commandement to drink. Let them chuse by what part they will be reproved. Every one of these overthrows their new doctrine, and all of them cannot be escaped.
* But let it be considered whether it be likely that Christ should at one time institute two Sacraments (for they pretend Ordination to be as very a Sacrament as the Lords supper) of so different Natures, and yet speak nothing of the use, or the reason, the benefit or the necessity of one of them; nor tell them that he did so, nor explicate the mystery, nor distinguish the Rite, or the words, but leave it to be supposed or conjectured by the most imperfect and improbable construction in the world. But suppose it; yet at least it must be confessed that the words which Christ us'd, and the same ritual, must in the Apostle ministery be able to effect the same grace: and if so, then a Priest hath power to ordain Priests; for he hath power to say, *Hoc facite*, in all the same meanings which Christ had, when he us'd them: and if this be not accepted, yet at least a Bishop may ordain all the congregations Priests if he please, by saying of one Mass; which are pretty fancies, and rare propositions in our Divinity.

10. To which I adde this consideration that if our Blessed Lord did by those words of *Hoc facite* make his Disciples Priests, then they were Priests before the Lord himself; for although he was designed for ever; yet he was consecrated on the Cross, there he entred upon his Priestly office; but officiates in that Office not on earth but in heaven, *For if he were on earth he should not be a priest*, saith S. *Paul*, Hebr. 8 4. therefore being consecrate on the Cross, he ascended into heaven to be there *our priest for ever there making intercession for us*. Now it were strange if the Apostles should be declar'd Priests before the Consecration, or first Sacerdotal action of their Lord; or that they should be Priests without the power of the Keys, without the comission to baptize in the Name of the Father, Son, and Holy Ghost, for these were given afterwards. But this device is so very a dream, so groundless and aiery a phantasme, so weakly layed and imployed to such trifling purposes, that it needs no further an inquiry into it, it was raised to serve the end of this question, to answer an objection, and pretends no strength of its own, neither can it weaken that which hath; and that it is indeed onely pretended for a shift, and intended to operate no further appears in this manifestly; because if the Apostles did drink of the Chalice in the capacity of being Priests, then it ought to be followed at least so farre, and all the Priests that are present ought to receive the Chalice, which because they doe not in the Church of *Rome*, it is apparent they prevaricate the institution, and that they may exclude the Laity from the cup, they use their Clergy as bad, when themselves doe not officiate.

11. 3. This trifling pretence being removed, it remains that the words of institution, *Drink ye all of this*, be also the words of a Commandement; and although they were spoken to the Apostles onely, as being onely present, yet the precept must equally concerne all Christians and Disciples of Christ. Matth. 26 41. Just like those of *Watch and pray lest ye fall into temptation*; and *unless ye be converted and become as little children, ye shall not enter into the Kingdome of* Matth. 18. 3. *God*; which were spoken onely in the presence of the Apostles: But as these precepts and moral Rules concerne all Christians; soe doe the words of institution of the H. Sacrament and Commandement of [*Drink ye all of this*] For, *Oportet cœnam Dominicam esse communem, quia ille omnibus Discipulis suis* In 1 Cor. 11. *qui aderant, æqualiter tradidit Sacramenta*, said S. *Hierom.* The Lords Supper is common to all, and so ought to be; because our Lord did equally deliver Ration l 4 c 1. it to all that were present: and upon this very account *Durandus* affirmes: *In primitiva Ecclesia singulis diebus omnes qui celebrationi missarum intererant communicare solebant, eò quòd Apostoli omnes de calice biberunt, Domino dicente, Bibite ex eo omnes.* In the Primitive Church all that were present did every day receive, because the Apostles did all drink of the Chalice, and the Lord said, *Drink ye all of this.*

12. And this appears beyond all contradiction to have been so intended. So Ep. ad Philad. S. *Ignatius*; *there is one bread broken to all*, καὶ ἓν ποτήριον τοῖς ὅλοις διανεμηθέν, *and one Chalice distributed to all*, and *there is no difference in this between the priest* Sup. 1 Cor 11. *and the people*, said S. *Chrysostom*; and it is evident that S. Paul gives the same & sup 2 Cor. hom. 18. Commandement of drinking the Chalice, as of eating the Bread; six times distinctly mentioning both the Symbols, and directing the Rule and the pre- 1 Cor. 1. 1, 2. cepts of eating and drinking *to all that are sanctified in Christ Jesus*, even to all 1 Cor. 11. who are to examine themselves; for *let a man examine himself, and so let him eat of that bread and drink of that cup*: and that it was so the custome of the Church, and their Doctrine that all are to receive the Chalice, that there was no

no Scruple made by the Church concerning it, we are fairly induc'd to a beleef; by the addition made to the Greek text of 1 *Cor.* 10. 17. by the Vulgar Latin; for whereas it is in the Greek [*we all partake of the same bread*] the Vulgar Latin addes [*& de uno Calice*] and of the same cup. This I the rather note becauſe the Jeſuits of *Colein* did uſe this for an argument of the half Communion; becauſe when S. *Paul* had ſpoken of the conſecration he mentions breaking bread, and drinking the cup; but when he ſpeaks of ſumption or participation, he onely mentions the bread, now ſuppoſing that: yet that defect is ſupplyed by the Vulgar Latin, the Author of which knowing the univerſal cuſtome of the Church and the doctrine of it, ſupplyed that out of the ſentence of the Church which is not in the Greek text. Though if it had not been yet the argument would have been juſt nothing, as being a concluſion drawn from a particular Negative in one place; and againſt his cuſtom in other places, and beſides the inſtitution.

13. For the doctrine and practice of the Church is ſo notorious in this Article that in the Greek Church there was never any variety in it; and to this day it is uſed as it was in the beginning and in all the intermedial Ages: and in the Latin Church for a thouſand years it was not altered; Nay to this day the Church of *Rome* ſings in the Hymne upon *Corpus Chriſti* day,

Dedit fragilibus corporis ferculum,
Dedit & triſtibus ſalutis poculum,
Dicens, Accipite quod trado vaſculum:
Omnes ex eo bibite.

He gave his body to be the food of the weak, and the Cup of ſalvation to the ſorrowful, ſaying, Take this Veſſel that I reach unto you, *Drink ye all of this.* Indeed it was often attempted to be chang'd upon the intereſt of divers Hereſies and ſuperſtitious fancies, and rare emergencies. For,

14. 1. It was attempted to be omitted in the time of S. *Cyprian* when ſome impertinent people would have water onely; But not the Chalice of the Lords inſtitution in the fruit of the vine: but theſe mens folly went not far, for being confuted and reprov'd by S. *Cyprian* in a letter to his Brother *Cæcilius*, I find no mention of them afterwards. Lib. 2. ep. 3.

15. 2. It was attempted to be chang'd upon occaſion of the *Eremites*, who comming but ſeldome to Church could but ſeldome receive the Chalice, but deſiring more frequently to communicate, they carryed the conſecrated bread with them into their cells, and when they had a mind to it, in that imperfect manner did imitate the Lords Supper. That they did ſo is certain, that they had no warrant for ſo doing is as certain; and therefore their doing ſo can be no warrant to us to doe as they did, much leſs ought it to be pretended in juſtification of the denying the Chalice to the whole Laity, when they deſire it and may have it. However this unwarrantable cuſtome of the Eremites was taken away by the firſt Councel of *Toledo* in the year 390. and afterwards again forbidden in the year 500. by the Fathers met in Councel at *Cæſar Auguſta*. The words of the Councel of Toledo are theſe; *Si quis autem acceptam à Sacerdote Euchariſtiam non ſumpſerit, velut ſacrilegus propellatur*: but this is fuller explicated in that of *Cæſar Auguſta*, *Euchariſtiæ gratiam ſi quis probatur acceptam non conſumpſiſſe in Eccleſia, anathema ſit in perpetuum*: ſo that under Can. 14.

the pain of a perpetual curſe, and under the crime of Sacrilege they were commanded to ſpend the Euchariſtical Symbols in the Church; and this took from them all pretence of the neceſſity in ſome caſe of not receiving the chalice.

16. 3. In the time of *P. Leo* the firſt, the *Manichees* who abſtained from wine as an abhomination, would yet thruſt themſelves into the ſocieties of the faithful, and pretend to be right beleevers; but S. *Leo* diſcover'd them by their not receiving the Chalice in the holy Euchariſt; and whereas they would have receiv'd in one kind onely, he calls it ſacrilege; and reproves them with the words of S. *Paul*; *Mark them which cauſe diviſions amongſt you, and offences contrary to the doctrine which ye have received.* This was about the year 449.

Serm. 4. de Quadrag.

Rom. 16.

17. 4. A while after, about the yeare 490. Some had gotten ſome ſuperſtitious fancy by the end; and out of reverence to the Holy Sacrament, or ſome other device of their own, they thought it fit to abſtain from the conſecrated Chalice: but P. *Gelaſius* made ſhort work with them; he condemn'd their ſuperſtition and gave ſentence, *Aut integra Sacramenta percipiant, aut ab integris arceantur*, Either all or none: Drive them from the H. Bread, if they refuſe the Sacrament of the Lords bloud.

Can. comper. de conſecrat. diſt. 2.

18. 5. The Church had ſometime in extraordinary caſes, as in communicating infants or dying people, dipt the holy Bread into the Chalice, and ſo miniſtred the Sacrament: upon occaſion of which ſome fell in love with the trick, and would have had it ſo in ordinary miniſtrations: we find it mention'd in the Hiſtory of *Serapion* in *Euſebius*, and in S. *Cyprian* 4. *de lapſis*, & *in Proſper'*. But againſt this breach P. *Julius* oppos'd himſelf and ſtood in the gap, declaring it to be againſt the Divine order and Apoſtolical inſtitutions, and contrary to the doctrine of the Goſpel and of the Apoſtles and the cuſtome of the Church; and his words are remarkable to ſhow from whence this Article is to be adjuſted and determin'd: *Non difficile hoc ab ipſo fonte veritatis probatur, in qua ordinata ipſa Sacramentorum myſteria proceſſerunt*; The very ordination or inſtitution of the Sacrament is the fountain from whence we are to derive the truth in this inquiry. But when this Superſtition was again reviv'd about the year 580. the now mention'd decree of P. *Julius* was repeated in the third Councel of *Braccara*, and all ſet right again according to the perpetual cuſtome of the Church, and the inſtitution of our B. Lord, and their pretence (which was leſt they ſhould ſpill any thing of the holy Chalice) laid aſide as trifling and ſuperſtitious.

De conſecr. diſt. 2. Can. Ego omne.

Ep. ad Epiſc. Aegypt.

19. 6. And yet after all theſe motions made by Hereticks and ſuperſtitious perſons, and ſo many cautions, ſuppreſſions, and decrees againſt them; about the year 920. the order of *Cluniack Monks* did communicate with the Bread dipt in the Chalice as *Caſſander* reports: and about the yeer 1120. it was permitted in ſome Churches ſo to doe: For by this time the world was ſo rude and ignorant that they knew little of the myſteries of Religion, and car'd leſs; ſo that for the danger of effuſion of the holy wine they in ſome places choſe that expedient: which although it was upon great reaſon condemned by P. *Julius* and the Councel of *Braccara*, yet it is a great argument that they ſtill beleev'd it neceſſary to communicate under both Symbols.

L. 2. c. 35.

7. But

20. 7. But about the time that the School-men began to rule the chair, this danger of ſpilling the Chalice wrought ſo much in their wiſe heads that they began about the year 1250. in ſome Churches to leave out all uſe of the Chalice, excepting to the Prieſts and ſome Great men who would be careful not to ſpill. This was but in *ſome Churches* ſaid *Aquinas*; and it was permitted to all the Prieſts preſent, *de quibus præſumitur quòd magis ſint cauti*; and to ſome Grandees of the people too for the ſame reaſon, as we find in *Richard Middleton*, *Innocent* the fourth, and *Petrus de Tarantaſia*. 3 part. ſum. Q. 80. art. 12. 4. d. 11. qu. 3. art. 3. qu. 1.

21. 8. But by little and little the abuſe went further, and grew confirm'd, and Miracles pretended and invented, as *Alexander of Ales* reports, to ſtop the outcries of certain Religious who were extremely troubled at the loſs of the Chalice: and now at laſt it became the general cuſtome of the Weſtern Churches; and it grew ſcandalous to deſire it; and it was *eſtabliſhed into a doctrine* in the Councel of *Conſtance*, and the inſtitution of Chriſt, and the cuſtome of the Primitive Church were openly defied, taking notice of and ſo laid aſide, and *Anathema* pronounced on them that ſhould inſiſt upon their right, or deny *whole Chriſt to be under each kind* in the Councel of *Trent*; and ſo it abides at this day.

22. The queſtion being now reduc'd to this ſhort iſſue; *whether under each kind whole Chriſt be received*; it is not unworthy a ſhort inquiry, concerning the truth, and concerning the conſequence of it.

23. 1. *For the truth.* I conſider that the effect of external rituals and ceremonials cannot be diſputed Philoſophically; as we inquire into the portions of effect which every herb hath in an infuſion; but we are to take and uſe them in the ſimplicity of their inſtitution; leaving them under that ſecrecy of their own myſteriouſneſs in which they were left in their firſt appointment and publication. The Apoſtle explicating the myſteries of our Religion, ſaith, that *Chriſt was delivered* (meaning unto death) *for our ſins, and was raiſed again for our juſtification*; and yet that *we are juſtified by his bloud.* Upon theſe accounts we can ſay that by Chriſts *death* and by his *reſurrection* we are juſtified, and therefore we are to be partakers of both; but becauſe we are *juſtified by faith in his bloud*, it will at no hand follow, we may let alone our *faith*, or neglect to procure our part in his *reſurrection.* So it is in the Symbols Euchariſtical: ſuppoſing it had been ſaid of the Bread, *This is Chriſt*, or *This is the death of Chriſt*, and the ſame ſaid of the Chalice; yet one alone is not ſufficient to be received when both are inſtituted: for as all the myſteries of our redemption are effective to our pardon and ſalvation; ſo are both the Symbols of the Euchariſt to our reception of Chriſt; and Baptiſme or abſolution may better be pretended to the excluſion of the whole Euchariſt, then the ſufficiency of bread to the excluſion of the Chalice; for remiſſion of ſins is perfectly the grace of Baptiſme; and thoſe ſins return not, but in the caſe of Apoſtacy: but what is the effect of bread alone is no where told, but that it is the commemoration or remembrance of the broken body of Chriſt, and the communication of that body: But then the chalice is alſo the remembrance of Chriſts bloud powred forth, and the exhibition of that which is for the remiſſion of ſins: and how theſe two doe work that in us which we hope for, *we know not*, but that they work as myſteries and Sacraments doe work, but not as herbs, or natural agents, *that* we may beleeve. Rom. 4. 25. Rom. 5. 9.

2. I

24. 2. I conſider that when Chriſt appointed to the two Symbols two diſtinct ſignifications, and that we beleeve that the Sacraments exhibite to worthy communicants what they repreſent to all, it muſt be certain that all Chriſt, that is, that all the benefits of Chriſt are not conveyed by each, which are conveyed by both, becauſe, as they *ſignifie* ſo they *exhibite*; but they do not each ſignifie what both together doe. The breaking of the body does not ſignifie the effuſion of the bloud; neither does the ſhedding of the bloud ſignifie the breaking the body: and to think that the reduplication of the Symbols is ſuperfluous, is to charge Chriſt with impertinency; and if it be not ſuperfluous, then there is ſomething of real advantage by both, that is not in each. I will not venture to aſſign to each their portion of effect: for what they have they have not naturally, but by Divine donation and appointment, and therefore I will not take notice that the ſame chalice is repreſentative and effective of union and charity, (though that is uſual enough in ſocieties and friendſhips,

L. 6 ep. 11. ——*Pylades, Marce, bibebat idem.*)

but this I ſhall obſerve that the whole effect of the Sacrament is equally attributed to the worthy receiving the chalice as to that of the bread; and therefore S. *Remy* caus'd theſe verſes to be written on the chalice,

Hauriat hinc populus vitam de ſanguine ſacro,
Inflicto æternus quem fudit vulnere Chriſtus.

let the people from hence draw live iſſuing from the wounds of Chriſt: now whatſoever effect is attributed to one is not in excluſion of the other: but in concomitance with it: and therefore as it would be a ſtrange folly to diſpute what benefit we receive by Chriſts fleſh diſtinctly, and how much of our redemption is wrought by his bloud, and it could have no uſe and no certainty: ſo it would be as ſtrange to ſay there is ſo much diſtinctly in the H. bread, ſo much in the wine; and it is worſe to attribute to one that which can be employed to exclude the other: and it is certain there can be nothing ſaid of advantage that either one or the other hath; and therefore the chalice may exclude the bread as well as the H. bread the chalice, both alike, that is, indeed neither.

25. But it is to be obſerved that in this inquiry the queſtion cannot be concerning the *receiving Chriſt*; but of receiving *the Sacraments of Chriſt*, of his body and of his bloud. For we receive Chriſt in Baptiſme, and we receive Chriſt by faith; and yet nevertheleſs we are to receive the Sacraments of Chriſts body and bloud: and therefore ſuppoſe we did receive Chriſt in the Holy bread, yet that bread is but the Sacrament of his broken body; and therefore we muſt alſo receive the Sacrament of his bloud ſpilt for us: or elſe we omit to receive the one half of the Sacrament: and if the queſtion were onely about receiving Chriſt, we might pretend the whole Sacrament to be needleſs, becauſe a ſpiritual communion, and faith alone will do that work, but yet faith alone, or the Spiritual communion does not give us the Sacrament, nor obey Chriſt in this inſtance, nor commemorate and repreſent his death, which is the duty here inquir'd of, and here enjoin'd.

26. And therefore the dream of the Church of Rome that he that receives the body, receives alſo the bloud, becauſe by concomitance, the bloud is received in the body, is neither true nor pertinent to this queſtion. Not true, becauſe the Euchariſt being the Sacrament of the Lords death, that is, of his body

body broken, and his bloud powred forth, the taking of the Sacrament of the body does not by concomitance include the bloud; because the body is here Sacramentally represented as slain and separate from bloud: and that is so notorious that some superstitious persons *A. D.* 490. refus'd the Chalice, because (said they) the body of Christ represented in the holy Sacrament *exangue est*, it is without bloud; but now the Romanists refuse the Chalice because the body is not without bloud: they were both amiss; for it is true the body is represented Sacramentally as killed, and therefore without bloud, which had ran out at the wounds; and therefore concomitance is an idle and an impertinent dream: but although the body is without bloud in his death; yet because the effusion of the bloud is also Sacramentally to be represented, therefore they should not omit the Chalice.

27. But as to them of the Roman Church; if the bloud be in the body by *Concomitance*, and therefore they who receive the body receive also the bloud; then they who sacrifice the body do also sacrifice the bloud; and then it will be no more necessary to celebrate in both kinds then to communicate in both, and indeed though the Roman Schools will not endure that the sacrifice (as they call it) or the consecration should be in one kind, yet *Volaterranus* saies that P. *Innocent* the eighth gave leave to the *Norvegians* to sacrifice in bread onely: certain it is the Priest may as well doe so, as the people receive in one kind, for the people doe in their manner as much celebrate the death of Christ as the Priest, nor he alone, nor they alone, but the whole action is the due celebration however the argument of *concomitance* concludes equally: against the celebration in both kinds, as against the participation; and why the Priest should be oblig'd to drink the chalice and cannot be excus'd by *Concomitance*, and yet the people are not oblig'd, but are excus'd by that pretension, abating the reasons of interest, cannot easily be imagined.

28. Certain it is they had other thoughts in the Councel of *Turon*; for when they considered the necessities of sick and dying people, they appointed the consecrated bread to be sopp'd in the consecrated Chalice; adding this reason, *Ut veraciter Presbyter dicere possit, Corpus & Sanguis Domini nostri Jesu Christi proficiat tibi in remissionem peccatorum & vitam æternam:* that the Priest may say truly, The body and bloud of our Lord Jesus Christ be profitable unto you for the remission of your sins and unto life eternal. If they had then understood the device of *Concomitance*, they would have known that the Priest might have said so truly, without sopping the H. Bread in the chalice: but the good Fathers had not yet learn'd the new Metaphysicks.

29. 2. Now for *the consequence* of this pretension; I consider that let the thing be as true as the interested persons would have it; yet it is not well that we should dispute against a Divine institution upon a pretence of our vain arguings. The Apostles with great simplicity took in both kinds at that time in which onely the device of concomitance was or could be true, for then when they receiv'd it the bloud was in the body of Christ; but it was Sacramental of the bloud to be powred out the next day; however they obeyed with simplicity and without inquiry, and never feared spilling, nor argued, nor sought excuses; such simplicity would equally become us: and as to the usefulness of receiving in both kinds, although it will ill becom any man to argue concerning the usefulness of a Divine institution, & to pretend excuses against Christ, upon the account of a Philosophy of their own invention, is very much unlike the

spirit

ſpirit of humility and wiſedome and obedience which ought to be the inveſtiture of a Chriſtians heart and the tiar of his head, yet I obſerve that even in this particular the diſadvantage is not little.

10. For if receiving the Sacrament be of any advantage to ſouls, then it is certain he that does not receive it is a loſer; and yet he that does not receive the Chalice does not receive the Sacrament, but a peece of it onely; Now in Sacraments half is as good as none: as he who ſhould onely dip a child in pure water, and yet not invocate the Trinity ſhould doe nothing at all with his half Baptiſme; ſo it is certain that the effect of a Sacrament is not imparted by a half Communion. And therefore *Alexander of Ales* ſaid well, *Sumpto hoc Sacramento digne in utraque ſpecie major eſt effectus unius corporis myſtici cum capite, quàm ſumpto ſub altera*: and in another place he ſaies to receive under both kinds is *majoris meriti tum ratione augmentationis devotionis, tum ratione fidei dilatationis actualis, tum ratione ſumptionis completioris*: it is of greater merit or value, there is a greater myſtical Union between the head and the members, a greater increaſe of devotion, a larger and more actual extent of faith, and a more compleat Sacramental reception of Chriſt himſelf. To the ſame purpoſe there are good things ſpoken in *Albertus Magnus*[a], and in *Thomas Aquinas*[b], *Bonaventure*[c], and *Petrus de Palude*[d] and divers others, all agreeing that one alone does not make a Sacrament, but a peece of one, and that there is advantage by both kinds which is not to be had in one: which advantage if it be ſpiritual (as it is, if it be at all) then he that robs the people of a ſpiritual good which our Bleſſed Lord hath deſigned for them and left unto them, is ſacrilegious and prophane; it is uncharitable and it is impious. I ſay it is impious.

Quæſt. 32. memb 1. art 2.

Quæſt. 33.

[a] 4 Sent. diſt. 8. art. 13.
[b] 3. part. Sum. q. 66. art. 2.
[c] diſt 8 q. 2.
[d] diſt. 11 art. 1.

31. For it is not to be deſpiſed that our B. Lord gave this Sacrament as his laſt will and Teſtament; and though he gave it in his body and bloud, yet he expreſſed onely *the New teſtament in his bloud*; and for any Church to violate the Teſtament of our B. Lord, however men may make no great matter of it; yet it will receive a puniſhment according as God ſets a value upon it; and he that ſhall pluck one ſeal from a Teſtament, and ſay that one is as good as two, when two were put to it by the Teſtator, cannot be excus'd by ſaying it was nothing but a formality and a ceremony. *Gods ceremonies* are bound upon us by *Gods Commandement*; and what he hath made to be a ſign, does ſignifie and exhibit too: and as the braſen ſerpent though it was but a type or ſhadow of the H. Crucifixe; yet did real cures; ſo can the Symbols and Sacraments of the crucifixion being hallowed by the Divine inſtitution, and confirmed by his power; and therefore a violation here is not to be called onely a queſtion in a ceremony; it is a ſubſtantial part of the Chriſtian religion, it is the ſanction of the New Teſtament, the laſt will of our dying Lord. *Now if it be but a mans teſtament*, ſaith S. *Paul, yet no man diſannulleth or addeth thereto*: and therefore to diſannul or leſſen a portion of the Teſtament of the Son of God muſt needs be a high impiety. *Teſtamentum quia individuum eſt pro parte agnoſci & pro parte repudiari non poſſit*, ſaies the law, *L. 7. jus noſtr. D. de reg. iur.* If you pudiate a part of the will, you muſt renounce it all; If you permit not to the people the bloud of Chriſt, you hinder them from having a part in the death of Chriſt, ſo far as lies in you. Adde to this; that this Holy myſtery being acknowledged by all to be the moſt myſterious ſolemnity of the religion, and by the Church of *Rome* affirm'd to be a proper ſacrifice, and ſo contended for; it would be remembred that our B. Saviour did adapt, and fit

Gal. 3. 15.

this

this rite to the usages and customes both of Jews and Gentiles; amongst whom laws, and societies, and contracts and sacrifices were made solemn by effusion and drinking of bloud; and instead of bloud (amongst the more civil Nations) they drink wine; and by that were suppos'd partakers even of the bloud of the Sacrifice. Ἀπὸ τούτου γε φασὶ μεθύειν ὠνομάσθαι (saies *Philo*) ὅτι μὴ τὸ πιεῖν ἕνεκα τοῦ μὴ τοῖς θυσίοις ὀνεῖδος. To be drunk, viz. in the Greek hath its name from their drinking wine after their sacrifices: and with this Custome among the Gentiles, and with the Paschal ceremonie of this nature amongst the Jews our Blessed Lord complying looses the wisedome and prudence of it; if the Priest shall sacrifice, and the people drink none of the bloud of the sacrifice, or that which ritually and Sacramentally represents it. The covenant of the Gospel, the covenant which God made with us our Blessed Saviour established and ratified with bloud: Wine was made to represent and exhibite it: He therefore that takes this away, takes away the very Sacramentality of the mysterie, and *without bloud there is no remission.* For as he that gives bread and no water does not nourish the body but destroy it: so it is in the Blessed Sacrament: for (that I may use S. *Austins* expression which *Paschasius* and *Algerus* in this Article did much insist upon) *Nec caro sine sanguine, nec sanguis sine carne jure communicatur. Totus enim homo ex duabus constans substantiis redimitur, & ideo carne simul & sanguine saginatur.* Neither the flesh without the bloud, nor the bloud without the flesh is rightly communicated. For the whole man consisting of two substances is redeem'd, and therefore nourish'd both with the flesh and the bloud. Καὶ ὁ καθάπαξ ὅτι τὸ παλαιὰς, τὰ μὲν ὁ ἱερεὺς ἔπεσε, τὰ δὲ ὁ ἀρχομένου καὶ δέμας ἐκ μιᾶς τῷ λαῷ μετέχειν ᾧ μετεῖχεν ὁ ἱερεύς, ἀλλὰ πᾶσιν ἓν σῶμα προκεῖται καὶ ποτήριον ἕν. It is not now as it was in the old Testament where the Priest eat one portion, the Prince another, and the people another; here it is alike to all, the same body and the same chalice is to all. I end this inquiry with the saying of S. *Cyprian, Si ne unum quidem ex minimis mandatis legis solvere debet, multo minus ex his magnis mandatis pertinentibus ad ipsum Dominicæ passionis & nostræ redemptionis Sacramentum fas est ullum infringere, vel humanâ traditione mutare.* If it be not permitted to break one of the least Commandements of the Law, much less is it to be endured, to break any one, or by humane tradition to change any belonging to the Sacrament of our Lords passion and of our redemption: and therefore if ever any Sect or any single person was guilty of the charge, it is highly to be imputed to the Church of *Rome*, that *they teach for doctrine the Commandements of men; and make the Commandement of God of none effect by their tradition.*

Chrysost. hom. 18. in 2 Cor.

L. 2. ep. 3.

RULE

Rule 10.

If the ſence of a Law be dubious, we are ſometimes to expound it by Liberty, ſometimes by Reſtraint.

1. ALthough all the Laws of Jeſus Chriſt are ſo legible in the ſenſe intended that all good men being plac'd in their proper circumſtances conducted by the Divine providence, making uſe of all their prepared and ready inſtruments can certainly read the prime intention and deſign of God, yet becauſe ſome laws are ſo combin'd with matter and twiſted with material caſes, ſo intricated by the accidents of men and the inveſtiture of actions, that they caſt a cloud upon the light of Gods word, and a veil upon the Guide of our lives; and becauſe the ſenſe of words doe change, and very often words cannot be equal with things, it comes to paſs that the laws are capable of differing ſenſes; when therefore any thing of this Nature happens; the firſt ſenſe of the words is either to be inlarged or reſtrained according to the following meaſures.

In what caſes the ſtricter ſenſe of the laws of Chriſt is to be followed.

2. 1. When the duty enjoined by the law is *in deliberation*, and is *to be done*, we are to uſe reſtraint, and take the ſeverer ſenſe of the Law. The reaſon is becauſe that is the ſurer way, and hath in it no inconvenience or impoſſibility; but being it is the matter of choice, in all deliberation for the future we muſt give ſentence for God, and for the intereſt of Religion Thus when it is commanded we ſhould *judge our ſelves that we be not iudged of the Lord*; in the inquiry which every penitent man makes concerning the extenſion of the duty of judging our ſelves, , if the queſtion be whether judging our ſelves means onely to condemne our ſelves for having ſinned, and to confeſs our ſelves juſtly lyable to the Divine judgment; or does it alſo mean, to puniſh our ſelves, and by putting our own ſentence againſt our ſin into a ſevere execution of that ſentence upon our ſelves by corporal inflictions; he that can no otherwiſe be determin'd in the queſtion, can ſafely proceed by choſing the ſeverer ſide: for there is no loſs in it, no omiſſion, it contains all that any man can think to be required, and therefore hath in it prudence aud charity, caution and regard, to God and to himſelf.

3. 2. This is not to be underſtood onely in caſe there is a doubt no otherwiſe to be reſolved but by the collateral advantage of the ſurer ſide; but this ſeverer ſenſe of the law is of it ſelf moſt reaſonable to be choſen, as being the intended ſenſe and deſign of the Lawgiver, who certainly puts no poſitive meaſures to his own laws of love and duty. For ſince the great deſign of the law is ſuch a perfection which muſt for ever be growing in this world, and can never here arrive to its ſtate and period, that ſenſe which ſets us moſt forward is the moſt intended; and therefore this way is not onely to quiet the doubt, but to governe and to rule the Conſcience: This is not onely the ſurer way, but the onely way that is directly intended. It is agreeable to the meaſures of charity, or the love of God, which

is

is to have no other bounds, but even the best we can in the measures of God and the infirmities and capacities of man.

4. 3. In the interpretation of the laws of Christ, the strict sense is to be followed when the laws relate to God and to religion, and contain in them direct matter of piety and glorifications of God, or charity to our Neighbour, because in them the further we goe, the neerer we are to God, and we are not at all to be stopp'd in that progression till we are at our journeys end, till we are in the state of comprehension. To this purpose are those words of *Ben-Sirach*, *When you glorifie the Lord, exalt him as much as you can, for even yet will he farre exceed, and when you exalt him put forth all your strength, and be not weary, for you can never goe farre enough. who hath seen him that he might tell us, and who can magnifie him as he is? There are hid greater things yet then these be, for we have seen but a few of his works*, meaning, that although we cannot glorifie God sufficiently for the works of power and mercy which we see and feel, yet because there are very many works which we see not, and infinite numbers and seas of glories above the clouds, which we perceive not and cannot understand, the onely measures of Religion and the love of God which we are to take, is to *pray continually*, *to love God alwayes*, *to serve him without end*, *to be zealous beyond all measures*, excepting those of duty and prudence, *to be religious without a limit*, *alwaies to desire*, *alwaies to endeavour*, *never to rest as long as we can work*, *never to give over as long as any thing is unfinish'd*, and consequent or Symbolical to all this, that in all disputes of Religion we chuse the sense of love, not of weariness, that we doe not contend for the lesser measures, but strive in all our faculties and desire beyond their strength, and propound Christ for our precedent, and heaven for our reward, and infinity for our measures toward which we are to set forth by our active and quick endeavour, and to which we are to reach by our constancy and desires, our love and the divine acceptance. Eccius. 43. 30, 31, 32.

When the lawes of Christ are to be expounded to a sense of ease and liberty?

5. If to the sense of the duty there be a collateral and indirect burden and evil appendage, and the alleviating of that burden is to be an ingredient into the interpretation of the law, and the direct duty is to be done in such measures as may doe the most good with suffering the least evil. This happens in two cases:

6. 1. If the strict and severer sense of the law be too great for the state and strength of the man, that is, if it be apt to make him despair, to make him throw away his burden: to make him tire, to be weary of, and to hate religion, his infirmities are to be pitied, and the severest sense of the law is not to be exacted of him. *Apices juris non sunt jus*, say the Lawyers: The little punctilios and minutes of law are not law; because if our duty be extended to every little tittle of duty it were necessary that our observation and attendance should be as particular and punctual; but because that cannot alwaies be actual and intent, particular and incumbent, those things which insensibly pass by the observation of a diligent watchful person, doe also inculpably passe by the man. But of this I have already given accounts in another place*. For the present I further consider, that charity being the great end of the law, and every

* Doctrine & practice of Repentance, c. 3.

law being a deſign of making a man happy, every Commandement of God is then beſt underſtood when it is made to doe moſt good, and reſcued from being an occaſion of evil. The Government of Jeſus Chriſt is moſt paternal and ſerene: his Rod is not heavy, his Commandements are not grievous, his bands are not ſnares; but they are holineſs, and they are liberty, they are *glory to God, and good will towards men.*

7. But this at no hand means that any material or integral part of duty can be omitted, and the omiſſion indulg'd in complyance with any mans infirmity or danger, for the law is to be our meaſure, our weakneſſes cannot be the meaſure of the integrity of the law; That infirmity by which we omit any part of duty is a ſtate of ſin; and God who knew all our infirmities and poſſibilities or impoſſibilities of obedience, complyed ſufficiently in the Sanction of the law, and impos'd no more burden then was even with our powers, and therefore for what remains we muſt ſtoop our ſhoulder and bear the burden which God's wiſedome made reaſonable and tolerable, and our neceſſity and intereſt makes unavoidable, and love will make eaſie and delectable.

8. But the burden which can be leſſen'd is the burden of degrees of intenſion or any thing which conſiſts not in a mathematical point, but is capable of growth: whatſoever is of ſuch a nature as is alwaies to increaſe in this life, in that ſuch abatements may be made as will fit the perſon and the ſtate; and no man is to be quarreld at for degrees in the beginnings, or in the firſt progreſſions of his piety, only he is to be invited on by proper and fair inducements, and if he ſtands ſtill alwaies as he is to be ſuſpected for want of love, ſo he is to be warned of his danger, and thruſt forward by the memory of the beſt examples. Thus it may not upon any terms be permitted to any weak perſon to doe an act of injuſtice, to blaſpheme God, to reproach his Father, to be wanton, he may not be allowed to ſlander his Brother, to neglect his children, to deſpiſe his wife, to part from her becauſe he is weary of her, for fear the not indulging any thing of this nature to him ſhould provoke him to anger againſt the Religion. We may not give eaſie anſwers in caſes of Conſcience, or promiſe heaven to them that live evil lives, for fear that our ſeverity ſhould make them forſake our Communion and go to the Roman Church; that is, we muſt not allow any man to do one evil to hinder him from another, or give leave to him to break one Commandement that we may preſerve another. But of this I have already given more particular accounts*. That which at preſent I intend is, that no ſin or omiſſion of duty is to be permitted, no law of Chriſt is to be expounded to comply with us againſt God, but when a leſs ſevere ſenſe is within the limits of duty, that our weakneſſes are to be complyed withall is affirm'd as being moſt charitable and neceſſary. Thus if it be inquired whether our ſorrow for our ſins ought to be punitive and vindictive, ſharp and ſenſible as the perception of any temporal evil, as the ſorrow of a Mother for the death of her onely child this being a queſtion of degrees which cannot conſiſt in an indiviſible point, is never limited and determinate; any degree that can conſiſt with the main duty may be permitted to him whoſe neceſſity requires ſuch indulgence; and if he be ſorrowful in ſuch a degree as to move him to pray paſſionately and perſeveringly for pardon, to beget in him a wiſe and a wary caution againſt temptation, to produce in him hatred againſt ſin, and dereliction of it, a war and a victory, the death of ſin, and the life of righteouſneſs, the penitent is not to be prejudic'd by the degree of his ſorrow, or the thickneſs of its edge, and the Commandement is ſo to be expounded, as to ſecure the duty and ſecure the man

* Vide Book 1. Chapt. 5. Rul. 8. n. 16. &c. uſque ad finem.

man too: and if he be told that a less degree of sorrow then the supreme will not serve his turne, and that the Commandement is to be expounded in the greatest and severest measures, he that finds this impossible to him, will let it all alone, for as good never a whit as never the better; but then, he that tells him so, hath laid a snare for his Brothers foot, and binds upon his shoulder a burden too heavy for him. For to what purpose can we imagine that there should be a latitude in the Commandement, and yet no use to be made of the least degree? and if God cherishes the babes in Christ, and is pleas'd in every step of our progression, then it is certain that they who are but babes are to be treated accordingly, and the Commandement is to be acted by the proportions of the man. * But then if the question be concerning the integrity of the Repentance, he that is troubled at heart because he is told that a resolution to leave sin is not enough, that without restitution there is no repentance; he that will kick at Religion because it requires all the duties which integrate the Commandement, is not to be complyed with, nor permitted to his folly. * I have read of a Gentleman who being on his deathbed and his Confessor searching and dressing of his wounded Soul, was found to be oblig'd to make restitution of a considerable summe of Money, with the diminution of his estate. His Confessor found him desirous to be sav'd, a lover of his religion, and yet to have a kindness for his estate, which he desir'd might be intirely transmitted to his beloved Heir: he would serve God with all his heart, and repented him of his sin, of his rapine and injustice, he begg'd for pardon passionately, he humbly hop'd for mercy, he resolv'd in case he did recover, to live strictly, to love God, to reverence his Priests, to be charitable to the poor; but to make restitution he found impossible to him, and he hop'd the Commandement would not require it of him, and desir'd to be releeved by an easy and a favourable interpretation, for it is ten thousand pities so many good actions and good purposes should be in vain, but it is worse, infinitely worse, if the man should perish. What should the Confessor doe in this case? shall not the man be releeved; and his piety be accepted? or shall the rigor and severity of the Confessor, and his scrupulous fears and impertinent niceness cast away a Soul either in future misery, or present discomfort; neither one nor other was to be done; and the good man was onely to consider what God had made necessary, not what the vices of his penitent and his present follies should make so. Well! the Priest insists upon his first resolution, *Non dimittitur peccatum nisi restituatur ablatum:* The sick man could have no ease by the loss of a duty. The poor Clinick desires the Confessor to deal with his Son and try if he could be made willing that his Father might goe to Heaven at the charge of his Son, which when he had attempted, he was answer'd with extreme rudenesses and injurious language; which caused great trouble to the Priest and to the dying Father. At last the religious man found out this device, telling his penitent, that unless by corporal penances there could be made satisfaction in exchange for restitution he knew no hopes, but because the profit of the estate which was oblig'd to restitution was to descend upon the Son, he thought something might be hop'd if by way of commutation the Son would hold his finger in a burning candle for a quarter of an hour. The glad Father being overjoyed at this loophole of eternity, this glimpse of heaven, and the certain retaining of the whole estate, called to his Son, told him the condition and the advantages to them both, making no question but he would gladly undertake the penance. But the Son with indignation replyed he would not endure so much torture to save the whole estate. To which the Priest espying his advantage made this quick return to the Old man, Sir, if

your Son will not for a quarter of an hour endure the pains of a burning finger to ſave your Soul, will you to ſave a portion of the eſtate for him endure the flames of Hell to eternal ages? The unreaſonableneſs of the odds, and the ungratefulneſs of the Son, and the importunity of the Prieſt, and the fear of Hell, and the indiſpenſable neceſſity of reſtitution awakened the old Man from his lethargy, and he bowed himſelf to the Rule, made reſtitution, and had hopes of pardon and preſent comfort.

9. 2. The other caſe in which the law is to be expounded to the ſenſe of eaſe and liberty is when the queſtion is concerning outward actions, or the cruſt and outſides of Religion. For the Chriſtian Religion being wholly Spiritual, and being miniſtred to by bodily exerciſes, and they being but ſignifications of the inward, not at all pleaſing to God for themſelves, but as they edifie, inſtruct, or doe advantages to men, they are in all caſes to be exacted but in ſuch proportions as can conſiſt with charity, which is the life of Religion: and therefore if a Soul be in danger to be tempted, or overburden'd with a bodily exerciſe if there be hazard that all Religion will be hated, and that the man will break the yoke if he be pinched in his skin, it is better to ſecure the great and internal principle of obedience, then the external inſtance and expreſſion. This Caution is of uſe in the injunction of faſting daies, and external acts of mortification, which are indeed effects of the laws of Chriſt, but the meaſures of theſe laws are to be ſuch as conſiſt with the great end of the laws, that is, mercy and internal Religion. And the great reaſon of this is; becauſe all external actions are really ſuch as without our fault they may be hindred; there may be ſome accidents and cauſes by which they ſhall not be at all, and there may be many more by which they may be eas'd and leſſen'd. An external accident, or a corporal infirmity is to be complyed withall in the matter of external miſteries; that is, when there is mercy in it: and ſo muſt every vertue and inward grace, becauſe it is for the intereſt of Religion. Now what muſt be permitted in the action ought to be ſo in the ſentence, and that is the meaning of the law which is either commanded to the ſtrong or indulged to the weak. Adde to this, that outward actions of Religion are for the weak, not for the ſtrong; they are to miniſter to weakneſs and infirmities, and by bodily expreſſions to invite forward, to entertain, to ferment, to endear the ſpirit of a man to the purpoſes of God; but even the body it ſelf ſhall be ſpiritual, and it is intended that it ſhall wholly miniſter to God in ſpiritual ſervices hereafter. In the mean time, by outward acts it does ſomething Symbolical, or at leaſt expreſſive of the inward duty. But therefore if the external doe diſſerve the Spirit of God by oppreſſing the ſpirit of the man; that whoſe Nature and inſtitution is wholly inſtrumental muſt be made to comply with the end; and therefore muſt ſtand there when it is apt to miniſter to it, but muſt goe away if it hinders it.

10. 3. In the interpretation of the laws of Chriſt to a ſenſe of eaſe and liberty, there muſt be no limits and leſſenings deſcrib'd beforehand; or in general; becauſe any ſuch proceeding would not onely be deſtitute of that reaſon which warrants it in ſome caſes, but would evacuate the great purpoſe of the law in all: that is, it would be more then what is neceſſary to comply with new and accidental neceſſities, and to others it would be leſs then what is intended in the law, it would either tye the weak to impoſſibilities, or give leave to the ſtrong to be negligent and unprofitable; it would command too much or permit too much; it would either hold the bridle too hard, or break it all

in

in peeces. But the interpretation and ease must be as accidental as the cause that inforces it, or the need that invites it; that is, every law of Christ intends that we should obey it in the perfection, that we should do it in the best way we can; and every man must doe so; but because all cannot doe alike, every mans best is alike in the event, but not in the action; and therefore the law which is made for man must mean no more then every man can doe; but because no man is to be supposed to be in disorder and weakness, till he be found to be so, therefore beforehand no complyance or easie interpretation is to be made of the degrees of duty.

11. 4. No laws of Christ are to suffer diminution of interpretation in the degrees to persons that make themselves weak, that they may bear but a little burden: but the gentler sentence and sence of laws is to be applyed to ease the weary and the afflicted, him that desires much and can doe but little; to him that loves God and loves religion; to him that endeavours heartily, and inquires *diligently*, and means *honestly*; to him that hath every thing but strength, and wants nothing but growth and time, and good circumstances and the prosperities of piety. The best indications of which state of persons are these:

Who are truly and innocently weak and to be complyed with?

12. 1. They are to be complyed with who are new beginners in religion, or *the uninstructed*; they who want strengths not by reason of any habitual sin, but by the nature of beginnings and new changes; for none can more innocently pretend to a forbearance and sufferance, then those who have the weakness of infancy. But I added also that *the uninstructed* have the same pretension, for according as their degrees of ignorance are, so are the degrees of their excusable infirmity. But then by uninstructed is onely meant such who have not heard, or could not learn; not such who are *ever learning* and never sufficiently taught; that is, such who love to hear but not to be *doers of the word*, such who are perverse and immorigerous, such who serve a humor or an interest, an opinion or a peevish Sect in their learning. For there are some who have spent much time in the inquiries of religion, whom if you call ignorant they suppose themselves injur'd; and yet will require the privileges and complyances of the weak: these men trouble others, and therefore are not to be eas'd themselves; their weakness of state is the impotency of passion, and therefore they must not rejoice in that by which they make others griev'd.

13. 2. They are to be complyed with according to the foregoing measures who in all things where they know and can, doe their hearty endeavours, and make no abatement to themselves, but with diligence and sincerity prosecute their duty. For this diligence and sincerity is a competent Testimony that the principle of their necessity is not evil but innocent and unavoidable. Whatsoever is not an effect of idleness or peevishness may come in upon a fair, but alwaies comes in upon a pityable account; and therefore is that Subject which is capable of all that case of rigour and severity which the wise Masters of assemblies and interpreters of the Divine laws doe allow to any persons in any cases.

14. 3. The last sign of Subjects capable of ease is *infirmity of body*; and that is a certain disposition to all the mercies and remissions of the law in such

caſes as relate to the body and are inſtanc'd in external miniſteries. To which alſo is to be referred *diſability of eſtate* in duties of exteriour charity; which are to be exacted according to the proportions of mens civil power, taking in the needs of their perſons and of their relations, their calling and their quality, and that God intends it ſhould be ſo appears in this; becauſe all outward duties are ſo enjoin'd that they can be ſupplyed, and the internal grace inſtanc'd in other actions, of which there are ſo many kinds that ſome or other can be done by every one; and yet there is ſo great variety that no man or but very few men can doe all. I inſtance in the ſeveral waies of mortification, *viz.* by faſtings, by watchings and pernoctations in prayer, lyings on the ground, by toleration and patience, laborious geſtures of the body in prayer, ſtanding with arms extended, long kneelings on the bare ground, ſuffering contradiction and affronts, leſſenings and undervaluings, peeviſh and croſs accidents, denying our ſelves lawful pleaſures, refuſing a pleaſant morſel, leaving ſociety and meetings of friends, and very many things of the like Nature; by any of which the body may be mortified and the Soul diſciplin'd: or the outward act may be ſupplyed by an active and intenſe love which can doe every thing of duty: So alſo it is in alms, which ſome doe by giving money to the poor; ſome by comforting the afflicted, ſome by giving ſilver and gold, others which have it not, doe yet doe greater things: but ſince it matters not what it is we are able to doe, ſo that we do but what we are able, it matters not how the grace be inſtanc'd, ſo that by all the inſtances we can, we doe miniſter to the grace, it follows, that the law can be made to bend in any thing of the external inſtance ſo that the inward grace be not neglected; but therefore it is certain that becauſe every thing of matter can by matter be hindred; and a ſtring or a chain of Iron can hinder all the duty of the hand and foot, God who impoſes and exacts nothing that is impoſſible, is contented that the obedience of the Spirit be ſecured, and the body muſt obey the law as well as it can.

But there are ſome other conſiderations to be added to the main Rule.

15. 5. When the action is already done, and that there is no further deliberation concerning the direct duty, yet the law is not at all to be eaſed and leſſened, if there be a deliberation concerning the collateral and accidental duty of Repentance: and this is upon the ſame reaſons as the firſt limitation of the rule. for when a duty is to be done, and a deliberation to be had, we are in perfect choice, and therefore we are to anſwer for God and for Religion, and this is all one, whether the inquiry be made in the matter of inocence or repentance, that is, in the preventing of a ſin or curing of it. For we are in all things tyed to as great a care of our duty after we have once broken it as before; and in ſome things to a greater; and repentance is nothing but a new beginning of our duty, a going from our error, and a recovery of our loſs, and a reſtitution of our health, and a being put into the ſame eſtate from whence we were fallen; ſo that at leaſt all the ſame ſeverities are to be uſed in repentance, as great a rigor of ſentence, as ſtrict a caution, as careful a walking, as humble and univerſal an obedience, beſides the ſorrow and the relative parts of duty which come in upon the account of our ſin.

16. 6. But if the inquiry be made after the ſin is done, and that there is no deliberation concerning any preſent or future duty, but concerning the hopes or ſtate of pardon, then we may hope that God will be eaſie to give us pardon, according to the gentleſt ſenſe and meaſures of the law. For this, provided it be not brought into evil example in the meaſures of duty afterwards, can have

have in it no danger: it is matter of hope, and therefore keeps a man from deſpair; but becauſe it is but matter of hope, therefore it is not apt to abuſe him into preſumption, and if it be miſtaken in the meaſures of the law, yet it makes it up upon the account of Gods mercy, and it will be all one; either it is Gods mercy in making an eaſie ſenſe of the law, or Gods mercy in giving an eaſie ſentence on the man, or Gods mercy in eaſing and taking off the puniſhment, and that will be all one as to the event, and therefore will be a ſufficient warrant for our hope, becauſe it will ſome way or other come to paſs as we hope. It is all alike whether we be ſaved becauſe God will exact no more of us, or becauſe though he did exact more by his law yet he will pardon ſo much the more in the ſentence: But this is of uſe onely to them who are tempted to deſpair, or oppreſſed by too violent fears; and it relies upon all the lines of the Divine mercy, and upon all the arguments of comfort by which declining hopes uſe to be ſupported: and ſince we our ſelves by obſerving our incurable infirmities eſpy ſome neceſſities of having the law read in the eaſier ſenſe, we doe in the event of things find that we have a need of pardon greater then we could think we ſhould in the heats of our firſt converſion and the fervors of our newly returning piety; and therefore God does not onely ſee much more reaſon to pity us upon the ſame account; but upon divers others, ſome whereof we know and ſome we know not; but therefore we can hope for more then we yet ſee in the lines of Revelation, and poſſibly we may receive in many caſes better meaſure then we yet hope for: but whoever makes this hope to leſſen his duty will find himſelf aſhamed in his hope; for no hope is reaſonable but that which quickens our piety, and haſtens and perfects our repentance, and purifies the Soul, and engages all the powers of action, and ends in the love of God, and in a holy life.

17. 7. There are many other things to be added by way of aſſiſtance to them who are preſſed with the burden of a law *ſeverely apprehended*, or *unequally applyed*, or *not rightly underſtood*; but the ſumme of them is this.

1. If the ſenſe be hidden or dubious, doe nothing till the cloud be off, and the doubt be removed.

2. If the law be indifferent to two ſenſes, take that which is moſt pious and moſt holy.

3. If it be between two, but not perfectly indifferent, follow that which is moſt probable.

4. Doe after the cuſtome and common uſages of the beſt and wiſeſt men.

5. Doe with the moſt, and ſpeak with the leaſt.

6. Ever bend thy determination to comply with the analogy of faith, and the common meaſures of good life, and the glorifications and honour of God, and the utility of our Neighbour.

7. Then choſe thy part of obedience, and doe it cheerfully and confidently, with a great induſtry and a full perſuaſion.

8. After the action is done enter into no new diſputes whether it was lawful or no, unleſs it be upon new inſtances and new arguments, relating to what is to come, and not troubling thy ſelf with that which with prudence and deliberation thou didſt (as things were then repreſented) well and wiſely choſe.

Rule II.

The positive laws of Jesus Christ cannot be dispensed with by any humane power.

1. I Have already in this book given account of the indispensability of the Natural laws which are the main constituent parts of the Evangelical: but there are some positive laws whose reason is not natural nor eternal, which yet Christ hath superinduc'd; concerning which there is great question made whether they be dispensable by humane power. Now concerning these I say that all laws given by Christ are now made for ever to be obligatory, and he is the King of heaven and earth, the Head and Prince of the Catholick Church, and therefore hath supreme power, and he is the *wonderful Councellour, the everlasting Father, the Prince of Peace*, and his wisedome is supreme, he is *the wisedome of the Father*, and therefore he hath made his laws so wisely, so agreeably to the powers and accidents of mankind that they can be observed by *all men* and *all waies*, where he hath pass'd an obligation: Now because every dispensation of laws must needs suppose an infirmity or imperfection in the law or an infirmity in the man, that is, that either the law did inferre inconvenience which was not foreseen, or was unavoidable; or else the law meets with the changes of mankind with which it is not made in the sanction to comply, and therefore must be forc'd to yeeld to the needs of the man. and stand aside till that necessity be past: it follows that in the laws of the H. Jesus there is no dispensation; because there is in the law no infirmity and no incapacity in the man: for every man can alwaies obey all that which Christ commanded and exacted: I mean he hath no natural impotency to do any act that Christ hath requir'd, and he can never be hindred from doing of his duty.

Chap. 1. Rule 10.

2. And this appears in this, because God hath appointed a harbour whether every vessel can put in when he meets with storms and contrary winds abroad: and when we are commanded by a persecuter not to obey God, we cannot be forc'd to comply with the evil man; for we can be secure against him by suffering what he pleases, and therefore disobedience to a law of Christ cannot be made necessary by any external violence: I mean every internal act is not in it self impedible by outward violence: and the externall act which is made necessary can be secur'd by a resolution to obey God rather then men.

3. 2. But there are some external actions and instances of a Commandement which may accidentally become impossible by subtraction of the material part; so for want of water a child cannot be baptized; for want of wine or bread we cannot communicate; which indeed is true, but doe not inferre that therefore there is a power of dispensing left in any man or company of men; because in such cases there is no law, and therefore no need of dispensation; For affirmative precepts in which onely there can be an external impediment doe not oblige but in their proper circumstances and possibilities: and thus it is even in human laws. No law obliges beyond our power; and although it be necessary sometimes to get a dispensation even in such cases, to rescue our selves from the malice or the carelessness, the ignorance or the contrary interests of the ministers of justice, who goe by the words of the law, and are not competent or nor instructed judges in the matter of necessity or excuse, yet there

there is no such need in the laws of God. For God is alwaies just and alwaies wise, he knows when we can and when we cannot, and therefore as he cannot be deceived by ignorance, so neither can he oppress any man by injustice, and we need not have leave to let a thing alone, which we cannot doe if we would never so fain; and if we cannot obey, we need not require of God a warrant under his hand or an act of indemnity; for which his justice and his goodness, his wisedome and his very Nature are infinite security: and therefore it cannot be necessary to the Church that a power of dispensing should be intrusted to Men, in such cases where we cannot suppose the law of God to bind. Thats our best security that we need no dispensation.

4. 3. In external actions and instances of vertue or of obedience to a Commandement of Jesus Christ where ever there can be a hinderance, *if the obligation does remain*, the instance that is hindred can be supplyed with another of the same kind. Thus releeving the poor hungry man, can be hindred by my own poverty and present need, but I can visit him that is sick, though I cannot feed the hungry, or I can give him bread when I cannot give him a cloak; and therefore there can need no dispensation when the Commandement if it be hindred in one instance can as perfectly and to all the intentions of our lawgiver be performed in another.

5. 4. In external actions *which can be hindred and which cannot be supplyed by the variety of the instances in the same kind*, yet if the obligation remains, they may be supplyed with the internal act, and with the spiritual. Thus if we cannot receive actual baptisme, the desire of it is accepted, and he that communicates spiritually, that is, by faith and charity, by inward devotion and hearty desire, is not guilty of the breach of the Commandement if he does not communicate sacramentally, being unavoidably and inculpably hindred. For whatsoever is not in our power, cannot be under a law, and where we doe not consent to the breach of a Commandement, we cannot be exposed to the punishment. This is the voice of all the world, and this is natural reason, and the ground of justice, without which there can be no Government but what is Tyrannical and unreasonable. These things being notorious and confess'd the consequents are these:

6. 1. That there is no necessity that a power of dispensing in the positive laws of Christ should be intrusted to any man, or to any society. Because the law needs it not, and the Subjects need it not: and he that dispenses must either doe it when there is cause, or when there is none. If he dispenses when there is no cause, he makes himself superiour to the power of God by exercising dominion over his laws: If he dispenses when there is cause, he dispenses when there is no need. For if the Subject can obey, he must obey, and man cannot untie what God hath bound: but if he cannot obey, he is not bound, and therefore needs not be untyed: he may as well go about to unbend a strait line, or to number that which is not, as to dispense in a law, to which in such cases God exacts no obedience.

7. * *Panormitan* affirms that the Pope hath power to dispense *in all the laws of God*, except in the Articles of faith; and to this purpose he cites *Innocentius in c. Cum ad Monasterium, de statu Monachorum.* * *Felinus* affirmes that the Pope can change the form of Baptisme, and that he can with one word, and without all solemnity consecrate a Priest, and that he can by his word alone

* C. proposuit. de concess. præbend. n. 20.
* In c. quæ in Eccles. inconst. n. 19, 20.

alone make a Bishop: and though these pretenses are insolent and strange, yet in fact he does as much as this comes to: for the Pope gives leave sometimes to a mere Priest to give confirmation, which by divine right is onely belonging to Bishops by their own confession: That the Blessed Eucharist is to be consecrated in both kinds is certainly of Divine right; and so confessed by the Church of *Rome*: but the Pope hath actually dispensed in this article and given leave to some to consecrate in bread onely, and particularly to the *Norvegians* a dispensation was given by *Innocent* the eighth, as I have already noted out of *Volaterranus*.

8. There are some learned men amongst them who speak in this question with less scandal, but almost with the same intentions and effects. Some of their Divines, particularly the Bishop of the *Canaries*, saies that the Pope hath not power to dispense in the whole, or in all the laws of God, but in some onely; namely where the observation of the law is *impeditiva majoris boni*, a hindrance or obstruction to a greater Spiritual good; as it may happen in oaths and vows: and (*Sanchez* addes) in the consecration of the Blessed Sacrament in both kinds: in these, say they, the Pope can dispense: But where the observation of the laws in the particular brings no evil, or inconvenience, and does never hinder a greater good, there the laws are indispensable; such as are *Confession, Baptisme, using a set form of words in the ministration of the Sacraments*. So that the meaning is, the Pope never wants a power to doe it, if there be not wanting an excuse to colour it, and then in effect the Divines agree with the Lawyers; for since the power of dispensing is given in words indefinite and without specification of particulars (if it be given at all;) the authority must be unlimited as to the person, and can be limited onely by the incapacity of the matter; and if there could be any inconvenience in any law, there might be a dispensation in it: So that the Divines and the Lawyers differ onely in the instances; which if we should consider, or if any great interest could be serv'd by any, there can be no doubt but it would be found a sufficient cause of dispensation. So that this is but to cozen mankind with a distinction to no purpose; and to affirme that the Pope cannot dispense in such things which yeeld no man any good or profit: such as is the using a set forme of words in Baptisme, or the like; and they may at an easie rate pretend the Popes power to be limited, when they onely restrain him from violating a Divine law, when either the observation of it is for his own advantage, as in Confession (meaning to a Priest) or when it serves the interest of no man to have it changed, as in the formes of Sacraments.

Canus relect. de Penitent. p. 5. a. finem.

9. But then, that I may speak to the other part; to say that the Pope may dispense in a Divine law when the particular observation does hinder a greater spiritual good, and that this is a sufficient cause, is a proposition in al things false, and in some cases, even in those where they instance, very dangerous. *It is false*, because if a man can by his own act be oblig'd to doe a thing which yet is impeditive of a greater temporal good, then God can by his law oblige his obedience, though accidentally it hinder a greater spiritual good. Now if a man have promised, he must keep it though it were to his own hindrance, said *David*; and a man may not break his oath though the keeping of it hinder him from many spiritual comforts and advantages; nay a man may neglect a spiritual advantage for a temporal necessity; and in the Bohemian warres, the King had better been at the head of his Troops, then at a Sermon when *Prague* was taken.

Psal. 15.

* But

* But I consider (for that is also very material) that it is dangerous. For whenmen to justifie a pretence or to verifie an action or to usurpe a power shall pretend that there is on the other side a greater Spiritual good they may very easily deceive others, because either voluntarily or involuntarily they deceive themselves, for when God hath given a Commandement, who can say that to let it alone can doe more good to a mans Soul then to keep it? I instance in a particular which is of great interest with them. If a man have vowed to a woman to marry her, and contracted himself to her *per verba de præsenti*; she according to her duty loves him passionately, hath marryed her very Soul to him, and her heart is bound up in his: but he changes his mind, and enters into religion: but stops at the very gate and asks who shall warrant him for the breach of his faith and vows to his Spouse? The Pope answers he will; and though by the law of God he be tyed to that woman, yet because the keeping of that vow would hinder him from doing God better service in religion this is a sufficient cause for him to dispense with his vow. This then is the case concerning which I inquire: 1. How does it appear that to enter into a monastery is absolutely a greater Spiritual good then to live chastly with the wife of his love and vows? 1. 2. I inquire whether to break a mans vow be not of it self (abstracting from all extrinsecal pretensions and collateral inducements) a very great sin? and if there were not a great good to follow the breach of it, I demand whether could the Pope dispense or give leave to any man to doe it? If he could, then it is plain he can give leave to a man to doe a very great evil; for without the accidentally consequent good, it is confessed to be very evil to break our lawful vows. But if he cannot dispense with his vow unless some great good were to follow upon the breach of it, then it is cleer he can give leave to a man to doe evil that good may come of it. For if without such a reason or such a consequent good the Pope could not dispense, then the consequent good does legitimate the dispensation, and either an evil act done for a good end is lawful and becomes good, or else the Pope plainly gives him leave to doe that which is still remaining evil, for a good end: either of which is intolerable, and equally against the Apostles Rule, which is also a rule of natural religion and reason: No man must doe evil for a good end. 2.

* But then, 3. who can assure me that an act of religion is better then an act of justice? or that God will be served by doing my wife an injury? or that he will accept of me a new vow which is perfectly a breaking of an old? or that by our vows to our wives we are not as much obliged to God as by our Monastical vows before our Abbot? or that marriage is not as great an act of religion if wisely and holily undertaken (as it ought to be) as the taking the habit of S. *Francis*? or that I can be capable of giving my self to religion when I have given the right and power of my self away to another? or that I may not as well steal from a man to give alms to the poor, as wrong my wife to give my self to a Cloyster? or that he can ever give himself to religion, who breaks the religion of vows and promises, of justice and honour, of faith and the Sacramental mystery that he may goe into religion? or that my retirement in a cloister, and doing all that is these intended can make recompence for making my wife miserable, and it may be desperate and calamitous all her life time? Can God be delighted with my prayers which I offer to him in a cloister, when it may be at the same time my injur'd Spouse is praying to God to doe her justice and to avenge my perjuries upon my guilty head, and it may be, cries loud to God and weeps and curses night and day? who can tell which is better, or which is worse? For marriage and single life of themselves are indifferent to piety or impiety, they may be us'd well, or abus'd 3.

us'd to evil purpoſes; but if they take their eſtimate by the event, no man can beforehand tell which would have been the greater ſpiritual good. But ſuppoſe it as you liſt, yet,

11. I conſider that when God ſaies that *obedience is better then Sacrifice*, he hath plainly told us that no pretence of Religion, or of a greater ſpiritual good can legitimate vow-breach, or diſobedience to a divine Commandement: and therefore either the Pope muſt diſpenſe in all laws of Chriſt, and without all reaſon, that is, by his abſolute authority and ſupereminency over the law and the power that eſtabliſhed it, or elſe he cannot diſpenſe at all; for there is no reaſon that can legitimate our diſobedience.

12. But then if we conſider the Authority it ſelf, the conſiderations will be very material. No man pretends to a power of diſpenſing in the law of God but the Pope onely; and he onely upon pretence of the words ſpoken
Matth. 16. 19. to S. *Peter*, *Whatſoever thou ſhalt looſe on earth ſhall be looſed in heaven.* Now did ever any of the Apoſtles or Apoſtolical men ſuppoſe that S. *Peter* could in any caſe diſpenſe with vow-breach, or the violation of a lawful oath? Was not all that power which was then promiſ'd to him wholly relative to the matter of Fraternal correption? and was it not equally given to the Apoſtles? for either it was never perform'd to S. *Peter*, or elſe it was alike
Matth. 18. 18. promiſed and perform'd to all the Apoſtles in the donation of the Spirit, and of
John 20. 23. the power of binding, and the words of Chriſt to them before and after his reſurrection: ſo that by certain conſequence of this, either all the ſucceſſours of the Apoſtles have the ſame power, or none of the Succeſſours of S. *Peter*. Or if the Succeſſours of S. *Peter* onely, why not his ſucceſſors at *Antioch* as well as his Succeſſors at *Rome*? ſince it is certain that he was at *Antioch*, but is not ſo certain that he was at all at *Rome*, for thoſe things that *Ulrichus Velenus* ſaies againſt it in a Tractate on purpoſe on that Subject and publiſhed by *Goldaſtus* in his third Tome are not inconſiderable allegations & arguments for the Negative, but I ſhall give account of that inquiry in ſome of the following pages. And yet ſuppoſe he was, yet it is as likely, that is, as certain as the other; that after the Martyrdom of S. *Peter* and S. *Paul* there were two Biſhops or Popes of *Rome*; as it is conjectur'd by the different Catalogues of the firſt ſucceſſions, and by their differing Preſidencies or Epiſcopacies, one being over the Circumciſion and the other over the Uncircumciſion (if I ſay they were at all, concerning which I have no occaſion to interpoſe my ſentence.) But if either this gift was given in common to all the Apoſtles, or if it was given perſonally to S. *Peter*, or if it means onely the power of Diſcipline over ſinners and penitent perſons, or if it does not mean to deſtroy all juſtice and humane contracts, to reſcind all the laws of God and man, to make Chriſts laws Subject to Chriſts Miniſter, and Chriſts Kingdome to be the Popes inheritance and poſſeſſion, *in alto Dominio*, if thoſe words of Chriſt to S. *Peter* are ſo to be underſtood as that his Subjects and ſervants ſhall ſtill be left in thoſe rights which he hath given and confirm'd and ſanctified, then it follows undeniably that S. *Peter*'s power of the keys is not to be a pick-lock of the laws of his Maſter, but to bind men to the performance of them, or to the puniſhment of breaking them, and if by thoſe words of [*Whatſoever thou ſhalt looſe*] it be permitted to looſe and untie the band of oaths and vows, then they may alſo mean a power of looſing any mans life, or any mans right, or any mans word, or any mans oath, or any mans obligation ſolemn, or unſolemn, when he hath really an intereſt or reaſon ſo to doe, of which reaſon himſelf onely can be the

warran-

warrantable Judge: which things becauſe they are unſufferably unreaſonable, that pretence which inferrs ſuch evils and ſuch impieties muſt be alſo unſufferable and impoſſible.

13. I conclude therefore with this diſtinction. There is a proper diſpenſation, that is, ſuch a diſpenſation as ſuppoſes the obligation remaining upon that perſon who is to be diſpenſed with: but no man or ſociety of men can in this ſenſe diſpenſe with any law of Chriſt. But there is a diſpenſation improperly ſo called, which does not ſuppoſe a remanent obligation, and therefore pretends not to take away any, but ſuppoſes onely a doubt remaining whether the law does by Gods intention oblige or no? He that hath *skill* and *authority*, and *reaſon* to declare that in ſuch ſpecial caſes God intended not to oblige the Conſcience, hath taken away the doubt, and made that to become lawful which without ſuch a declaration by reaſon of the remaining doubt was not ſo. This is properly an interpretation; but becauſe it hath the ſame effect upon the man which the other hath directly upon the law, therefore by Divines and Lawyers it is ſometimes alſo called *a Diſpenſation*, but improperly.

14. But the other Conſequent ariſing from the firſt obſervations which I made upon this Rule is this; That as there is no neceſſity that there ſhould be any diſpenſation in the laws of Jeſus Chriſt; ſo in thoſe caſes where there may be an improper diſpenſation, that is, an interpretation or declaration that the law in this caſe does not bind at all, no man muſt by way of equity or condeſcention and expedient appoint any thing that the law permits not, or declare that a part of the law may be us'd; when the whole is in the inſtitution. For example; The Norvegians complaind that they could very ſeldom get any wine into their Country, and when it did come it was almoſt vinegar or vappe; He who had reaſon and authority might then certainly have declar'd that the precept of conſecrating did not oblige, when they had not matter with which they were to doe it; becauſe no good law obliges to impoſſibilities, But then no man of his own head might interpoſe an expedient, and ſay, though you have no wine to conſecrate and celebrate with all, yet you may doe it in ale or meath; nor yet might he warrant an imperfect conſecration and allow that the Prieſts ſhould celebrate with bread onely. The reaſon is becauſe all inſtitutions Sacramental, and poſitive laws depend not upon the Nature of the things themſelves, according to the extenſion or diminution of which our obedience might be meaſur'd; but they depend wholly on the will of the lawgiver, and the will of the Supreme, being actually limited to this ſpecification, this manner, this matter, this inſtitution; whatſoever comes beſides it hath no foundation in the will of the Legiſlator, and therefore can have no warrant or authority. That it be obeyed or not obeyed is all the queſtion and all the variety. If it can be obeyed it muſt, if it cannot it muſt be let alone. The right Mother that appeard before *Solomon* demanded her child; half of her own was offered; but that was not it which would doe her any good, neither would ſhe have been pleas'd with a whole bolſter of goats hair, or with a perfect image of her child, or with a living lamb; it was her own child which ſhe demanded: So it is in the Divine inſtitution, whatſoever God wills that we muſt attend to: and therefore whatſoever depends upon a divine law or inſtitution, whatſoever is appointed inſtrumental to the ſignification of a myſtery, or to the collation of a grace or a power, he that does any thing of his own head, either muſt be a deſpiſer of Gods will, or muſt ſuppoſe himſelf

the author of a grace, or elſe to doe nothing at all in what he does, becauſe all his obedience and all the bleſſing of his obedience depends upon the will of God which ought alwaies to be obeyed when it can, and when it cannot, nothing can ſupply it becauſe the reaſon of it cannot be underſtood, for who can tell why God would have the death of his Son celebrated by Bread and wine? why by both the Symbols? why by ſuch? and therefore no proportions can be made, and if they could, yet they cannot be warranted.

15. This Rule is not onely to be underſtood concerning the expreſs poſitive laws and inſtitutions of our Bleſſed Lawgiver, but even thoſe which are included within thoſe laws, or are neceſſary appendages to thoſe inſtitutions are to be obeyed, and can neither be diſpenſed withall nor diverted by any ſupplętory or expedient. Thus to the law of repreſenting and commemorating the death of our deareſt Lord by the celebration of his laſt ſupper it is neceſſarily appendant and included that we ſhould com worthily prepared, leſt that which is holy be given to Dogs, and holy things be handled unholily. In this caſe there can be no diſpenſation; and although the Curates of ſouls having the key of knowledge and underſtanding to divide the word of God rightly, have power and warrant to tell what meaſures and degrees of preparation are juſt and holy; yet they cannot give any diſpenſation in any juſt and requir'd degree, nor by their ſentence effect that a leſs degree then God requires in the appendant law can be ſufficient to any man, neither can any human authority commute a duty that God requires; and when he demands repentance no man can diſpenſe with him that is to communicate, or give him leave to give almes in ſtead of repentance. But if in the duty of preparation God had involv'd the duty of confeſſion to a Prieſt: this might have in ſome caſes been wholly let alone: that is, in caſe there were no Prieſt to be had but one, who were to conſecrate and who could not attend to hear my confeſſions: And the reaſon is, becauſe in caſe of the deſtitution of any material or neceſſary conſtituent part of the duty, there is no need of equity or interpretation, becauſe the ſubject matter of degrees of heightnings and diminutions being taken away, there can be no conſideration of the manner or the degrees ſuperſtructed. When any condition intrinſecally and in the nature of the thing included in an affirmative precept is deſtituent or wanting, the duty it ſelf falls without interpretation.

16. Laſtly; This Rule is to be underſtood alſo much more concerning the Negative precepts of the Religion: becauſe there can be no hindrance to the duties of a Negative precept; every man can let any thing alone; and he cannot be forc'd from his ſilence or his omiſſion; for he can ſit ſtill and die; violence can hinder an action, but cannot effect it or expreſs it: and therefore here is no place for interpretation much leſs for diſpenſation, neither can it be ſupplyed by any action or by any omiſſion whatſoever.

17. But upon the matter of this ſecond Conſequent remark'd above [numb. 14.] it is to be inquired whether in no caſe a ſupply of duty is to be made? or whether or no it is not better in ſome caſes, that is, when we are hindred from doing the duty commanded, to doe ſomething when we cannot doe all; or are we tyed to doe nothing when we are innocently hindred from doing of the whole duty?

When we may be admitted to doe part of our duty, and when to supply it by something else.

17. 1. Negative precepts have no parts of duty, no degrees of obedience, but consist in a Mathematical point; or rather in that which is not so much; for it consists in that which can neither be numbred nor weighed. No man can goe a step from the severest measure of a Negative Commandement; if a man doe but in his thought goe against it, or in one single instance doe what is forbidden, or but begin to doe it, he is intirely guilty. He that breaks one is guilty of all said S. *James*; it is meant of negative precepts; and then it is true in every sense relating to every single precept, and to the whole body of the Negative Commandements. He that breaks one hath broken the band of all; and he that does sin in any instance or imaginary degree against a Negative hath done the whole sin that is in that Commandement forbidden.

18. 2. All positive precepts that depend upon the meer will of the Lawgiver (as I have already discourted) admit no degrees, nor suppletory and commutation: because in such laws we see nothing beyond the words of the law and the first meaning and the nam'd instance; and therefore it is that *in individuo* which God points at; it is that in which he will make the tryal of our obedience; it is that in which he will so perfectly be obeyed, that he will not be disputed with, or inquir'd of why and how, but just according to the measures there set down; *So, and no more, and no less, and no otherwise.* For *when the will of the Lawgiver is all the reason, the first instance of the law is all the measures*, and there can be no product but what is just set down. No parity of reason can inferre any thing else, because there is no reason but the will of God; to which nothing can be equal, because his will can be but one. If any man should argue thus; Christ hath commanded us to celebrate his death by blessing and communicating in bread and wine; this being plainly his purpose; and I finding it impossible to get wine, consider that water came out of his side as well as blood, and therefore water will represent his death as well as wine; for wine is but like bloud, and water is more then like it self; and therefore I obey him better, when in the letter I cannot obey him; He I say that should argue thus, takes wrong measures; for it is not here to be inquired which is most agreeable to our reason, but which complies with Gods will, for that is all the reason we are to inquire after.

19. 3. In natural laws and obligations depending upon true and proper reason drawn from the nature of things; there we must doe what we can, and if we cannot doe all that is at first intended, yet it is secondarily intended that we should doe what we can. The reason is, because there is a natural cause of the duty, which like the light of the Sun is communicated in several degrees according as it can be received; and therefore whatever partakes of that reason is also a duty of that Commandement. Thus it is a duty of natural and essential religion that we should worship God with all the faculties of the soul, with all the actions of the body, with all the degrees of intension, with all the instances and parts of extension: For God is the Lord of all; he expects all, and he deserves all, and will reward all; and every thing is design'd in order to his service and glorification: and therefore every part of all this is equally commanded, equally requir'd; and is Symbolical to the whole; and therefore in the impossibility of the performance of any one, the whole

Commandement is equally promoted by another; and when we cannot bow the knee yet we can incline the head, and when we cannot give, we can forgive, and if we have not silver and gold, we can pay them in prayers and blessings; and if we cannot goe with our Brother two mile, we can (it may be) go one, or one half; let us goe as farre as we can, and doe all that is in our power and in our circumstances. For since our duty here can grow, and every instance does according to its portion doe in its own time and measures the whole work of the Commandement, and God accepts us in every step of the progression, that is, in all degrees; for he breaks not the bruised reed, and he quenches not the smoaking flaxe; it follows, that though we are not tyed to doe all, even that which is beyond our powers; yet we must doe what we can towards it; even a part of the Commandement may in such cases be accepted for our whole duty.

20. 4. In external actions which are instances of a Natural or Moral duty, if there be any variety, one may supply the other; if there be but one, it can be supplyed by the internal onely and spiritual. But the internal can never be hindred, and can never be chang'd or supplyed by any thing else; it is capable of no suppletory, but of degrees it is: and if we cannot love God as well as *Mary Magdalen* lov'd him, let us love him so as to obey him alwaies, and so as to superadde degrees of increment to our love, and to our obedience; but for this or that expression it must be as it can, and when it can, it must be this or another; but if it can be neither upon the hand, it must be all that is intended upon the heart; and as the body helps the Soul in the ministeries of her duty; so the Soul supplies the body in the essentialities of it and indispensable obedience.

Rule 12.

Not every thing that is in the Sermons and Doctrine of Jesus Christ was intended to bind as a law or Commandement.

1. *Every thing that is spoken by our Blessed Saviour is to be plac'd in that order of things where himself was pleas'd to put it.* Whatsoever he propounded to us under the Sanction of love, and by the invitation of a great reward, that is so to be understood as that it may not become a snare, by being supposed in all cases, and to all persons to be a law. For laws are established by fear and love too, that is, by promises and threatnings; and nothing is to be esteemed a law of Christ but such things which if we doe not observe we shall die, or incurre the Divine displeasure in any instance or degree. But there are some things in the Sermons of Christ which are recommended to the diligence and love of men; such things whether men must tend and grow. Thus it is required that we should love God with all our heart; which is indeed a Commandement and the first and the chiefest: but because it hath an infinite sense, and is capable of degrees beyond all the actualities of any man whatsoever, therefore it is incouraged and invited further by a reward that will be greater then all the work that any man can doe. But yet there is also the *minimum morale* in it, that is, that degree of love and duty, less then which is by interpretation no

no love, no duty at all; and that is, that we so love God, that 1. we love nothing against him, 2. that we love nothing more then him, 3. that we love nothing equal to him, 4. that we love nothing disparately and distinctly from him, but in subordination to him; that is, so as to be apt to yeeld and submit to his love, and comply with our duty. Now then, here must this law begin, it is a Commandement to all persons, and at all times to do thus much; and this being a general law of which all other laws are but instances and specifications, the same thing is in all the particular laws which is in the General: there is in every one of them a *minimum morale*, a *legal sense of duty*, which if we prevaricate or goe less then it, we are transgressours: but then there is also *a latitude of duty*, or a sense of Love and Evangelical increase, which is a further pursuance of the duty of the Commandement; but is not directly *the law*, but *the love*; to which God hath appointed no measures of greatness but hath invited as forward as the man can goe.

2. For it is considerable that since Negative precepts include their affirmatives, and Affirmatives also doe inferre the Negatives (as I have already discoursed) and yet they have differing measures and proportions, and that the form of words and *signes Negative* or *Affirmative*, are not the sufficient indication of the precepts, we can best be instructed by this measure; *There is in every Commandement a negative part and an affirmative:* The Negative is the first, the least and the lowest sense of the law and the degree of duty; and this is obligatory to all persons and cannot be lessened by excuse, or hindred by disability, or excus'd by ignorance, neither is it to stay its time or to wait for circumstances; but obliges all men indifferently. I doe not say that this is alwaies expressed by negative forms of law or language, but is by interpretation Negative; it operates or obliges as doe the Negatives. For when we are commanded to love our Neighbour as our self; the least measure of this law, the legal or Negative part of it is, that we should not doe him injury: that we shall not doe to him, what we would not have done to our selves. He that does not in this sense love his Neighbour as himself, hath broken the Commandement; he hath done that which he should not doe; he hath done that which he cannot justifie; he hath done that which was forbidden: for every going less then the first sense of the law, then the lowest sense of duty, is the commission of a sin, a doing against a prohibition.

3. But then there are further degrees of duty then the first and lowest; which are the affirmative measures, that is, a doing excellent actions and instances of the Commandements, a doing the Commandement with love and excellency, a progression in the exercise and methods of that piety; the degrees of which because they are affirmative therefore thy oblige but in certain circumstances; and are under no law absolutely, but they grow in the face of the Sun, and pass on to perfection by heat and light, by love and zeal, by hope and by reward.

4. Now concerning these degrees it is that I affirme that every thing is to be plac'd in that order of things where Christ left it: and he that measures other men by his own stature, and exacts of children the wisedome of old men, and requires of babes in Christ the strengths and degrees of experienc'd Prelates, he addes to the laws of Christ, that is, he ties where Christ hath not tyed; he condemnes where Christ does not condemne. It is not a law that every man should in all the stages of his progression be equally perfect, the nature of things hath several stages, and passes by steps to the varieties of glory. For

ſo laws and Counſels differ, as firſt and laſt, as beginning and perfection, as reward and puniſhment, as that which is ſimply neceſſary, and that which is highly advantagious; they differ not in their whole kind; for they are onely the differing degrees of the ſame duty. He that does a Counſel Evangelical does not do more then his duty, but does his duty better: He that does it in a leſs degree ſhall have a leſs reward, but he ſhall not periſh if he does obey the juſt and prime or leaſt meaſures of the law.

5. Let no man therefore impoſe upon his brother the heights and ſummities of perfection, under pain of damnation or any fearful Evangelical threatning; becauſe theſe are to be invited onely by love and reward, and by promiſes only are bound upon us, not by threatnings. The want of the obſerving of this, hath caus'd impertinent diſputes and animoſities in men, and great miſunderſtandings in this queſtion. For it is a great error to think that every thing ſpoken in Chriſts Sermons is a law, or that all the progreſſions and degrees of Chriſtian duty are bound upon us by penalties as all laws are. The Commandements are made laws to us wholly by threatnings; for when we ſhall receive a crown of righteouſneſs in heaven, that is, by way of gift, meerly gratuitous, but the pains of the damned are due to them by their merit and by the meaſures of juſtice, and therefore it is remarkable that our Bleſſed Saviour ſaid, *when ye have done all that ye are commanded, ye are unprofitable ſervants*; that is, the ſtrict meaſures of the laws or the Commandements given to you are ſuch which if ye doe not obſerve ye ſhall die according to the ſentence of the law; but if ye doe, *ye are* yet *unprofitable*; ye have not deſerved the good things are laid up for loving Souls: but therefore towards that we muſt ſuperadde the degrees of progreſſion and growth in grace, the emanations of love and zeal, the methods of perfection and imitation of Chriſt. For by the firſt meaſures we eſcape hell; but by the progreſſions of love onely and the increaſe of duty, through the mercies of God in Chriſt we arrive at heaven. Not that he that eſcapes hell may in any caſe fail of heaven; but that whoſoever does obey the Commandement in the firſt and leaſt ſenſe, will in his proportion grow on towards perfection. For *he fails in the firſt, and does not doe that worthily, who if he have time does not goe on to the ſecond.*

6. But yet neither are theſe Counſels of perfection left wholly to our liberty ſo as that they have nothing of the law in them; for they are purſuances of the law; and of the ſame nature, though not directly of the ſame neceſſity; but collaterally and accidentally they are. For although God follows the courſe and nature of things, and therefore does not diſallow any ſtate of duty that is within his own meaſures; becauſe there muſt be a firſt before there can be a ſecond, and the beginning muſt be eſteemed good or elſe we ought not to purſue it and make it more in the ſame kind; yet becauſe God is pleaſed to obſerve the order of nature in his graciouſneſs, we muſt doe ſo too in the meaſures of our duty; Nature muſt begin imperfectly, and God is pleas'd with it, becauſe himſelf hath ſo order'd it; but the nature of things that begin and are not perfect, cannot ſtand ſtill. God is pleas'd well enough with the leaſt or the Negative meaſure of the law; becauſe that is the firſt or the beginning of all; but we muſt not alwaies be beginning but paſs on to perfection, and it is perfection all the way, becauſe it is the proper and the natural method of the grace to be growing: every degree of growth is not the perfection of glory; but neither is it the abſolute perfection of grace, but it is the relative perfection of it: juſtas corne and flowers are perfectly what they ought to be when in their

ſeveral

several moneths they are arrived to their proper stages: but if they doe not still grow till they be fit for harvest, they wither and die and are good for nothing: he that does not goe from strength to strength, from vertue to vertue, from one degree of grace to another, he is not at all in the methods of life, but enters into the portion of thornes, and wither'd flowers, fit for excision and for burning.

7. Therefore 1. No man must in the keeping the Commandements of Christ set himself a limit of duty; *hither will I come and no further:* for the tree that does not grow is not alive, unless it already have all the growth it can have: and there is in these things thus much of a law: Evangelical counsels are thus far necessary, that although in them, that is, in the degrees of duty, there are no certain measures describ'd; yet we are oblig'd to proceed from beginnings to perfection.

8. 2: Although every man must impose upon himself this care that he so doe his duty that he doe adde new degrees to every grace; yet he is not to be prejudic'd by any man else, nor sentenc'd by determin'd measures of another mans appointment: God hath nam'd none, but intends all; and therefore we cannot give certain sentence upon our Brother since God hath describ'd no measures; but intends *that all*, whither no man can perfectly arrive here; and therefore it is supplyed by God hereafter.

9. 2. But the Rule is to be understood in great instances as well as in great degrees of duty; For there are in the Sermons of Christ some instances of duties which although they are pursuances of laws and duty, yet in their own material, natural being are not laws, but both in the degree implyed, and in the instance expressed are Councels Evangelical; to which we are invited by great rewards, but not oblig'd to them under the proper penalties of the law. Such are making our selves Eunuchs for the Kingdome of heaven, selling all and giving it to the poor. The duties and laws here signified are chastity, charity, contempt of the world, zeal for the propagation of the Gospel: The vertues themselves are direct duties and under laws and punishment, but that we be charitable to the degree of giving all away, or that we act our chastity by a perpetual cœlibate are not laws; but for the outward expression we are wholly at our liberty; and for the degree of the inward grace, we are to be still pressing forwards towards it, we being obliged to doe so by the nature of the thing, by the excellency of the reward, by the exhortations of the Gospel, by the example of good men, by our love to God, by our desires of happiness, and by the degrees of glory. Thus S. *Paul* took no wages of the Corinthian Churches; it was an act of an excellent prudence, and great charity, but it was not by the force of a general law, for no man else was bound to it, neither was he; for he did not do so to other Churches; but he pursued two or three graces to excelent measures and degrees; he became exemplary to others, useful to that Church, and did advantage the affairs of Religion: and though possibly he might, and so may we, by some concurring circumstances be pointed out to this very instance and signification of his duty, yet this very instance, and all of the same nature are Councels Evangelical; that is, not imposed upon us by a law, and under a threatning; but left to our liberty that we may express freely, what we are necessarily oblig'd to doe in the kind, and to pursue forwards to degrees of perfection.

These

10. These therefore are the Characteristick notes and measures to distinguish a Counsel Evangelical from the laws and Commandements of Jesus Christ.

The notes of difference between Counsels and Commandements Evangelical.

1. Where there is no Negative expressed nor involved, there it cannot be a law; but it is a Counsel Evangelical. For in every law there is a degree of duty so necessary, that every thing less then it, is a direct act or state of sin, and therefore if the law be affirmative the Negative is included, and is the sanction of the main duty. Honour thy Father and Mother, that is a law: for the lowest step of the duty there enjoined is bound upon us by this Negative, *thou shalt not curse thy Father or Mother*; or, thou shalt not deny to give them maintenance. Thou shalt not dishonour them, not slight, not undervalue, not reproach, not upbraid, not be rude or disobedient to them: when ever such a Negative is included, that is the indication of a law. But in Counsels Evangelical, there is nothing but what is affirmative. There are some who make themselves Eunuchs for the kingdome of heaven: that is the intimation of a religious act or state: but the Sanction of it is nothing that is negative, but this onely; *He that hath ears to hear let him hear*, and *Qui potest capere capiat: He that can receive it let him receive it:* and *he that hath power over his will, and hath so decreed in his heart, does well.* In Commandements it is [He that does
1 Cor. 7. the duty, does well; He that does not, does ill:] but in Counsels it is; [He that does not, may doe well: but he that does, does better:] as S *Paul* discourses in the question of marriage; in which instance it is observable that the comparison of *Cœlibate* and *marriage* is not in the question of chastity, but in the question of religion, one is not a better chastity then the other. Marriage is κοίτη ἀμίαντος an undefiled state; and nothing can be cleaner then that which is not at all unclean; but the advantages of cœlibate above marriage as they are accidental and contingent, so they are relative to times and persons and states, and external ministeries; For to be made an *Eunuch for the Kingdom of heaven*, is the same that S. *Paul* means by, *the unmarryed careth for the things of the Lord*; that is, in these times of trouble and persecution, they who are not entangled in the affairs of a houshold, can better travail from place to place in the ministeries of the Gospel, they can better attend to the present necessities of the Church, which are called *the things of the Lord*; or the affairs of *the Kingdome of heaven:* but at no hand does it mean that the state of single life is of it self a Counsel Evangelical, or a further degree of chastity; but of an advantageous ministery to the propagation of the Gospel. But be it so, or be it otherwise; yet it is a Counsel and no law, because it hath no Negative part in its constitution, or next appendage.

11. 2. When the action or state is propounded to us onely upon the account of reward, and there is no penalty annexed, then it is a Counsel and no law: for there is no legislative power where there is no coercitive; and it is but a precarious Government, where the lawgiver cannot make the Subject either doe good or suffer evil: and therefore the *Jus gladii* and the *merum Imperium* are all one: and he that makes a law and does not compell the involuntary does but petition the Subject to obey, and must be content he shall doe it when he hath a mind to it. But therefore as soon as men made laws, and liv'd in communities, they made swords to coerce the private, and warres to restrain the publick irregularities of the world.

——*dehinc*

——*dehinc absistere bello,*
Oppida caperunt munire, & condere leges,
Nè quis fur esset, neu latro, neu quis adulter.

For it was impossible to preserve justice, or to defend the innocent, or to make obedience to laws if the Consuls lay aside their rods and axes: and so it is in the Divine laws; the Divine power and the Divine wisedome makes the Divine laws, and fear is the first Sanction of them: it is *the beginning of all our wisedome*; and all humane power being an imitation of and emanation from the Divine power is in the summe of affairs nothing but this, *habere potestatem gladii ad animadvertendum in facinorosos homines*, and therefore we conclude it to be no law, to the breaking of which no penalty is annexed: and therefore it was free to S. *Paul* to take or not to take wages of the Corinthian Church; for if he had taken it, it had been nothing but the making of *his glorying void*; that is, he could not have had the pleasure of obliging them by an uncommanded instance and act of kindness. *Hope* and *reward* is the endearment of *Counsels*; *fear* and *punishment* are the ligatures of *laws*.

12. 3. *In Counsels sometimes the contrary is very evil:* Thus to be industrious and holy, zealous and prudent in the offices Ecclesiastical, and to take holy orders in the daies of persecution and discouragement, is an instance of love (I doubt not) very pleasing and acceptable to God, and yet he that suffers himself to be discouraged from that particular employment, and to divert to some other instance in which he may well serve God, may remain very innocent or excusable: But those in the Primitive Church who so fear'd the persecution or the imployment that they cut off their thumbs or ears to make themselves canonically incapable, were highly culpable; because he that does an act contrary to the design of a Counsel Evangelical, is an enemy to the vertue and the grace of the intendment: He that onely lets it alone does not indeed venture for the greater reward, but he may pursue the same vertue in another instance or in a less degree, but yet so as may be accepted. He that is diverted by his fear and danger, and dares not venture, hath a pityable but in many cases an innocent infirmity: but he that does against it, hath an inexcusable passion; and is so much more blameable then the other, by how much a fierce enemy is worse then a cold friend, or a Neuter more tolerable then he that stands in open hostility and defiance. *But in laws, not onely the contrary, but even the privative is also criminal*; for not onely he that oppresses the poor is guilty of the breach of charity, but he that does not releeve them; because there is in laws an affirmative and a negative part; and both of them have obligation; so that in laws both omissions and commissions are sins, but where nothing is faulty but a contrariety or hostility, and that the omission is innocent, there it is only a Counsel.

13. 4. *In internal actions there is properly and directly no Counsel*, but a law onely: Counsels of perfections are commonly *the great and more advantageous prosecutions* of an internal grace or vertue: but the inward cannot be hindred by any thing from without, and therefore is capable of all increase and all instances onely upon the account of love; the greatest degree of which is not greater then the Commandement: and yet the least degree if it be sincere is even with the Commandement: because it is according to the capacity and greatness of the Man. But the inward grace in all its degrees is under a law or Commandement, not that the highest is necessary at all times, and to every person; but that we put no positive barrs or periods to it at any time, but

love

love as much as we can to day, and as much as we can to morrow, and ſtill the duty and the words to have a current ſenſe: and [*as much as we can*] muſt ſignifie ſtill more and more; now the uſing of direct and indirect min ſteries for the increaſing of the inward grace, this I ſay becauſe it hath in it materiality and an external part, and is directly ſubjicible to the proper Empire of the will, this may be the matter of Counſel in the more eminent and zealous inſtances, but the inward grace directly is not. To be juſt conſiſts in an indiviſible point, and therefore it is alwaies a law, but if to ſignifie and act our juſtice we give that which is due, and a great deal more to make it quite ſure, this is the matter of Counſel; for it is the external proſecution of the inward grace, and although *this* hath no degrees, yet *that* hath; and therefore *that* hath liberty and choice, whereas in *this* there is nothing but duty and neceſſity.

Rule 13.

Some things may be uſed in the ſervice of God which are not commanded in any Law, nor explicitely commended in any doctrine of Jeſus Chriſt.

1. THIS Rule is intended to regulate the Conſcience in all thoſe queſtions which ſcrupulous and ſuperſtitious people make in their inquiries for warranties from Scripture in every action they doe; and in the uſe of ſuch actions in the ſervice of God, for which particulars becauſe they have no word, they think they have no warrant, and that the actions are ſuperſtitious. The inquiry then hath two parts;

1. *Whether we are to require from Scripture a warrant for every action we doe*, in common life?

2. *Whether we may not doe or uſe any thing in religion*, concerning which we have no expreſs word in Scripture, and no Commandement at all?

1. Concerning the firſt the inquiry is but ſhort, becauſe there is no difficulty it but what is made by ignorance and jealouſie; and it can be anſwer'd and made evident by common ſenſe and the perpetual experience and the Natural neceſſity of things. For the laws of Jeſus Chriſt were intended to regulate humane actions in the great lines of Religion, juſtice and ſobriety, in which as there are infinite particulars which are to be conducted by reaſon and by analogy to the laws and Rules given by Jeſus Chriſt; ſo it is certain that as the general lines and rules are to be underſtood by reaſon how far they doe oblige, ſo by the ſame we can know where they doe not. But we ſhall quickly come to iſſue in this affair. For if for every thing there is a law or an advice; let them that think ſo find it out and follow it. If there be not for everything ſuch proviſion, their own needs will yet become their lawgiver and force them to do it without a law. Whether a man ſhall ſpeak French or Engliſh? whether baptiſed perſons are to be dipt all over the body, or will it ſuffice that the head be plunged? whether thrice or once? whether in water of the ſpring, or the water of the pool? whether a man ſhall marry, or abſtain? whether eat

eat flesh or herbs; chooſe *Titius*, or *Caius* for my friend; be a Scholar or a Merchant; a Phyſician or a Lawyer; drink wine or ale; take Phyſick for prevention, or let it alone; give to his Servant a great penſion, or a competent; what can the Holy Scriptures have to doe with any thing of theſe, or any thing of like Nature and indifferency?

2. For by nature all things are indulged to our uſe and liberty; and they ſo remain till God by a ſupervening law hath made reſtraints in ſome inſtances to become matter of obedience to him, and of order and uſefulneſs to the world; but therefore where the law does not reſtrain, we are ſtill free as the Elements, and may move as freely and indifferently as the atomes in the eye of the Sun. * And there is infinite difference between law and lawful; indeed there is nothing that is a law to our Conſciences but what is bound upon us by God, and conſign'd in holy Scripture (as I ſhall in the next Rule demonſtrate) but therefore every thing elſe is permitted, or lawful, that is, not by law reſtrain'd: liberty is before reſtraint; and till the fetters are put upon us we are under no law and no neceſſity, but what is natural. * But if there can be any natural neceſſities, we cannot chooſe but obey them, and for theſe there needs no law or warrant from Scripture. No Maſter needs to tell us or to give us ſigns to know when we are hungry or athirſt; and there can be as little need that a lawgiver ſhould give us a comand to eat when we are in great neceſſity ſo to doe. * *Every thing is to be permitted to its own cauſe and proper principle*; *Nature* and her needs are ſufficient to cauſe us to do that which is for her preſervation; *right reaſon* and *experience* are competent warrant and inſtruction to conduct our affairs *of liberty* and common life; but the matter and deſign of laws is *Honeſtè vivere, alterum non lædere, ſuum cuiq; tribuere*; or as it is more perfectly deſcrib'd by the Apoſtle, that we ſhould *live a godly, a righteous, a ſober life*; and beyond theſe there needs no law: when nature is ſufficient Jeſus Chriſt does not interpoſe, and unleſſe it be where reaſon is defective or violently abus'd, we cannot need laws of ſelf-preſervation, for that is the ſanction and great band and indearment of all laws: and therefore there is no expreſs law againſt ſelf-murder in all the new Teſtament; onely it is there and every where elſe by ſuppoſition; and the laws take care to forbid that, as they take care of fools and madmen, men that have no uſe or benefit of their reaſon or of their natural neceſſities and inclinations muſt be taken under the protection of others; but elſe when a man is in his wits, or in his reaſon, he is defended in many things, and inſtructed in more without the help or need of laws: nay it was need and reaſon that firſt introduced laws; for no law, but neceſſity and right reaſon taught the firſt ages,

Juvenal. l. 5. Satyr. 15.

Diſperſos trahere in populum, migrare vetuſto
De nemore, & proavis habitare, & linquere ſylvas,
Ædificare domos, laribus conjungere noſtris
Tectum aliud, tutos vicino limine ſomnos
Ut collata daret fiducia. Protegere armis
Lapſum, aut ingenti nutantem vulnere civem.
Communi dare ſigna tuba, defendier iiſdem
Turribus, atque una portarum clave teneri.

to meet and dwell in communities, to make covenants and laws, to eſtabliſh equal meaſures, to doe benefit interchangeably, to drive away publick injuries by common armes, to join houſes that they may ſleep more ſafe: and ſince laws were not the firſt inducers of theſe great tranſactions, it is certain they need not now to inforce them, or become our warrant to do that without which we cannot be what we cannot chuſe but deſire to be. But

3. But if nothing were to be done but what we have Scripture for, either commanding or commending, it were certain that with a leſs hyperbole then S. *John* us'd, *the world could not contain the books which ſhould be written*; and yet in ſuch infinite numbers of laws and ſentences no man could be directed competently becauſe his Rule and guide would be too big; and every man in the inquiry after lawful and unlawful would be juſt ſo enlightned as he that muſt for ever remain blind unleſs he take the Sun in his hand to ſearch into all the corners of darkneſs, no candleſtick would hold him, and no eye could uſe him. But ſuppoſing that in all things we are to be guided by Scripture, then from thence alſo let us inquire for a conduct or determination even in this inquiry; *whether we may not doe any thing without a warrant from Scripture?* and the reſult will be that if we muſt not doe any thing without the warrant of Scripture; then we muſt not for every thing look in Scripture for a warrant; becauſe we have from Scripture ſufficient inſtruction that we ſhould not be ſo fooliſh and importune as to require from thence a warrant for ſuch things in which we are by other inſtruments competently inſtructed, or left at perfect liberty.

4. Thus S. *Paul* affirmes, *All things are lawful for me*; he ſpeaks of meats and drinks, and things left in liberty concerning which becauſe there is no law, and if there had been one under *Moſes*, it was taken away by Chriſt, it is certain that every thing was lawful, becauſe there was no law forbidding it: and when S. *Paul* ſaid, *This ſpeak I, not the Lord*; he that did according to that ſpeaking, did according to his own liberty, not according to the word of the Lord; and S. *Pauls* ſaying in that manner is ſo far from being a warranty to us from Chriſt; that becauſe he ſaid true, therefore we are certain he had no warranty from Chriſt, nothing but his own reaſonable conjecture. * But when our Bleſſed Saviour ſaid *and why of your ſelves doe ye not judge what is right?* he plainly enough ſaid that to our own reaſon and judgement many things are permitted, which are not conducted by laws or expreſs declarations of God.

Adde to this that becauſe it is certain in all Theology, that *whatſoever is not of faith is ſin*, that is, whatſoever is done againſt our actual perſuaſion becomes to us a ſin, though of it ſelf it were not; and that we can become a law unto our ſelves, by vows and promiſes, and voluntary engagements and opinions, it follows that thoſe things which of themſelves inferre no duty, and have in them nothing but a collateral and accidental neceſſity, are permitted to us to doe as we pleaſe, and are in their own nature indifferent, and may be ſo alſo in uſe and exerciſe: and if we take that which is the leſs perfect part in a Counſel Evangelical, it muſt needs be ſuch a thing as is neither commanded nor commended, for nothing of it is commanded at all; and that which is commended is the more not the leſs perfect part; and yet that we may doe that leſs perfect part, of which there is neither a Commandement, nor a commendation but a permiſſion only appears at large in S. *Pauls* diſcourſe concerning Virginity and Marriage 1 *Corinth.* 7. 6, 37. But a permiſſion is nothing but a not prohibiting, and that is lawful which is not unlawful, and every thing may be done that is not forbidden: and there are very many things which are not forbidden, nor commanded; and therefore they are onely lawful and no more.

5. But the caſe in ſhort is this; In Scripture there are many laws and precepts of holineſs, there are many prohibitions and ſevere cautions againſt impiety: and there are many excellent meaſures of good and evil, of perfect and

and imperfect: * whatsoever is *good*, we are oblig'd to pursue; * whatsoever is *forbidden* must be declin'd; * whatsoever is *laudable* must be lov'd, and followed after. Now if all that we are to doe can come under one of these measures, when we see it, there is nothing more for us to doe but to conform our actions accordingly. But if there be many things which cannot be fitted by these measures, and yet cannot be let alone; it will be a kind of madnesse to stand still, and to be useless to our selves and to all the world, because we have not a command or a warrant to legitimate an action which no Lawgiver ever made unlawful.

6. But this folly is not gone far abroad into the world; for the number of mad-men is not many, though possibly the number of the very wise is less: but that which is of difficulty is this,

Quest. *Whether in matters of religion we have that liberty as in matters of common life?* or whether is not every thing of religion determined by the Lawes of Jesus Christ, or may we choose something to worship God withall, concerning which he hath neither given us Commandement or intimation of his pleasure?

Of Will-Worship.

To this I answer by several Propositions.

7. 1. All favour is so wholly arbitrary, that whatsoever is an act of favour, is also an effect of choice and perfectly voluntary. Since therefore that God accepts any thing from us is not at all depending upon the merit of the work, or the natural proportion of it to God, or that it can adde any moments of felicity to him, it must be so wholly depending upon the will of God that it must have its being and abiding onely from thence. He that shall appoint with what God shall be worshipped, must appoint what that is by which he shall be pleased; which because it is unreasonable to suppose, it must follow that all the integral, constituent parts of religion, all the fundamentals and essentials of the Divine worship cannot be warranted to us by nature, but are primarily communicated to us by revelation. *Deum sic colere oportet quomodo ipse se colendum præcepit*, said S. *Austin*. Who can tell what can please God, but God himself? for to be pleased, is to have something that is agreeable to our wills and our desires: now of Gods will there can be no signification but Gods word or declaration; and therefore by nothing can he be worship'd, but by what himself hath declar'd that he is well pleas'd with: and therefore when he sent his Eternal Son into the world, and he was to be the great Mediator between God and Man, the great instrument of reconciling us to God, the Great Angel that was to present all our prayers, the onely beloved by whom all that we were to doe would be accepted, God was pleased with voices from Heaven and mighty demonstrations of the Spirit to tell all the world that *by him* he would be reconcil'd, *in him* he would be worship'd, *through him* he would be invocated, *for his sake* he would accept us, *under him* he would be obeyed, *in his instances* and Commandments he would be lov'd and serv'd; saying, *This is my beloved Son in whom I am well pleased.*

S. Auguſt. de vera relig. c. 55. *Non ſit nobis religio in phantaſmatibus noſtris. Melius eſt enim qualecũque verum quam omne quicquid arbitrio cogi poteſt.* Lib. 1. de conſenſ. Evang. cap. 18.

8. 2. Now it matters not by what means God does convey the notices of his pleasure; πολυμερῶς, καὶ πολυτρόπως, in sundry wayes and in sundry manners God manifests his will unto the world: so we know it to be his will, it matters not whether by nature or by revelation, by intuitive and direct notices, or by argument or consequent deduction, by Scripture, or by tradition, we come to know what he requires and what is good in his eyes; onely we must not doe it of our own head. To worship God is an act of obedience and of duty, and therefore must suppose a Commandement; and is not of our choice, save onely that we must chuse to obey. Of this God forewarn'd his people: He gave them a Law, and commanded them to obey that intirely, without addition or diminution; neither more nor less then it, [*whatsoever I command you, observe to doe it; thou shalt not adde thereto nor diminish from it*] and again, [*ye shall not doe after all the things that we doe here this day, every man whatsoever is right in his own eyes*] that is, This is your Law that is given by God; make no lawes to your selves or to one another, beyond the measures and limits of what I have given you: nothing but this is to be the measure of your obedience and of the Divine pleasure. So that in the Old Testament there is an expres prohibition of any worship of their own chusing; all is unlawful, but what God hath chosen and declar'd.

Deuter. 12. 32. Vers. 8.

9. 3. In the New Testament we are still under the same charge; and ἐθελοθρησκεία or Will-worship is a word of an ill sound amongst Christians most generally, meaning thereby the same thing which God forbad in Deuteronomy, *viz.* ἕκαστος τὸ ἀρεστὸν ἐνώπιον αὐτοῦ πράττῃ, as the Lxx. expresses it, when every man does that (not which God commands, or loves) but which men upon their own fancies and inventions think good, that *which seems good in their own eyes*, or as our Blessed Saviour more fully, *teaching for doctrines the traditions, the injunctions or Commandements, of Men*: the instance declares the meaning. The Pharisees did use to wash their hands before meat, cleanse the outside of cups and dishes, they wash'd when they came from the judgment hall; and these they commanded men to doe, saying that by such things God was worshipped and well pleas'd. So that these two together, and indeed each of them severally, is will-worship in the culpable sense. He that sayes *an action which God hath not commanded is of it self necessary*, and he that sayes *God is rightly worshipped by an act or ceremony concerning which himself hath no way expres'd his pleasure*, is superstitious, or a will-worshipper. The first sins against charity; the second against religion: The first sins directly against his neighbour; the second against God: The first layes a snare for his neighbours foot; the second cuts off a Dogs neck and presents it to God: The first is a violation of Christian liberty; the other accuses Christs law of imperfection. So that thus far we are certain, 1. That nothing is necessary but what is commanded by God. 2. Nothing is pleasing to God in religion that is meerly of humane invention. 3. That the commandements of men cannot become doctrines of God, that is, no direct parts of the religion, no rule or measures of conscience.

Matt. 15. 8, 9 Mark 7. 7.

10. But because there are many actions which are not under command, by which God in all ages hath been served and delighted, and yet may as truly be called ἐθελοθρησκεία or will-worship as any thing else, and the name is general and indefinite, and may signifie a new religion, or a free will-offering, an uncommanded general or an uncommanded particular, that

that is, in a good sense, or in a bad, we must make a more particular separation of one from the other, and not call every thing *superstitious* that is in any sense a *will-worship*, but onely that which is really and distinctly forbidden, not that which can be signified by such a word which sometimes means that which is laudable, sometimes that which is culpable. Therefore,

What Voluntary or Uncommanded actions are Lawful or Commendable.

11. 1. *Those things which men doe, or teach to be done by a probable interpretation of what is doubtful or ambiguous, are not will-worship in the culpable sense.* God said to the Jewes that they should rest or keep a Sabbath upon the seventh day. How far this rest was to be extended, was to be taught and impressed not by the law, but by the interpretation of it; and therefore when the Doctors of the Jewes had rationally and authoritatively determin'd how far a Sabbath-daies journey was to extend, they who strictly would observe that measure which God describ'd not, but the Doctors did interpret, all that while were not to be blam'd, or put off with a *quis requisivit? who hath requir'd these things at your hands?*] for they were all that while in the pursuance and in the understanding of a Commandement. But when the Jew in *Synesius* who was the pilot of a ship, let go the helm in the even of his Sabbath, and did lye still till the next even, and refus'd to guide the ship though in danger of shipwrack, he was a superstitious foole, and did not expound but prevaricate the Commandement. * This is to be extended to all probable interpretations so far, that if the determination happen to be on the side of error, yet the consequent action is not superstitious if the error it self be not Criminal. Thus when the Fathers of the primitive Church did expound the sixth chapter of S. *Johns* Gospel of sacramental manducation; though they erred in the exposition, yet they thought they serv'd God in giving the Holy Communion to Infants: and though that was not a worship which God had appointed, yet it was not superstition, because it was (or for ought we know was) an innocent interpretation of the doubtful words of a Commandement. From good nothing but good can proceed, and from an innocent principle nothing but what is innocent in the effect. In fine, Whatsoever is an interpretation of a Commandement is but the way of understanding Gods wil, not an obtruding of our owne; alwayes provided the interpretation be probable, and that the glosse doe not corrupt the text.

12. 2. *Whatsoever is an equal and reasonable definition or determination of what God hath left in our powers, is not an act of a culpable will-worship or Superstition.* Thus it is permitted to us to chuse the office of a Bishop, or to let it alone; to be a Minister of the Gospel, or not to be a Minister. If a man shall suppose that by his own abilities, his inclination, the request of his friends, the desires of the people, and the approbation of the Church, he is called by God to this Ministery, that he should please God in so doing, and glorify his Name, although he hath no command or law for so doing, but is still at his liberty, yet if he will determine himself to this service, he is not superstitious or a will-worshipper in this his volun-

tary and choſen ſervice, becauſe he determines by his power and the liberty that God gives him, to a ſervice which in the general is pleaſing to God; ſo that it is but voluntary in his perſon, the thing it ſelf is of Divine inſtitution.

13. 3. *Whatſoever is done by prudent Counſel about thoſe things which belong to piety and charity, is not will-worſhip or ſuperſtition.* Thus when there is a Commandement to worſhip God with our body; if we bow the head, if we proſtrate our ſelves on the ground, or fall flat on our face, if we travail up and down for the ſervice of God, even to wearineſs and diminution of our ſtrengths, if we give our bodies to be burned, though in theſe things there is no Commandement, yet neither is there ſuperſtition, though we deſigne them to the ſervice of God, becauſe that which we doe voluntarily is but the appendage, or the circumſtance, or the inſtance of that which is not voluntary but impoſed by God.

14. 4. *Every inſtance that is Uncommanded if it be the act or exerciſe of what is commanded, is both of Gods chooſing and of mans*, it is voluntary and it is impoſed; this in the general, that in the particular. Upon this account, the voluntary inſtitution of the Rechabites in drinking no wine and building no houſes, but dwelling in Tents, was pleaſing to God; becauſe although he no where requir'd that inſtance at their hands, yet becauſe it was an act or ſtate of that obedience to their Father Jonadab which was injoyn'd in the fifth Commandement, God lov'd the thing, and rewarded the men. So *David* powr'd upon the ground the waters of *Bethlehem* which were the price of the young mens lives; *he powred them forth unto the Lord*: and though it was an Uncommanded inſtance, yet it was an excellent act, becauſe it was a ſelf denial and an act of mortification. The ὑπερεκα τῶ νομυ, the abundant expreſſions of the duty contained in the Law, though they be greater then the inſtances of the Law, are but the zeale of God, and of religion; the advantages of lawes, and the enlargements of a loving and obedient heart. Charity is a duty, and a great part of our Religion. He then that builds almes-houſes, or erects hoſpitals, or mends high wayes, or repairs bridges, or makes rivers navigable, or ſerves the poor, or dreſſes children, or makes meat for the poor, cannot (though he intends theſe for Religion) be accuſed for will-worſhip; becauſe the lawes doe not deſcend often to particulars, but leave them to the conduct of reaſon and choice, cuſtome and neceſſity, the uſages of ſociety and the needs of the world. That we ſhould be thankful to God, is a precept of natural and eſſential religion; that we ſhould ſerve God with portions of our time, is ſo too: But that this day, or to morrow, that one day in a week, or two, that we ſhould keep the anniverſary of a bleſſing, or the ſame day of the week, or the return of the moneth, is an act of our will and choice; it is *the worſhip of the will*, but yet of reaſon too and right religion. Thus the Jewes kept the feaſt of *Purim*, the feaſt of the fourth, the fifth, the ſeventh, the tenth moneth, the feaſt of the dedication of the Altar; and Chriſt obſerv'd what the *Maccabees* did inſtitute: and as it was an act of piety and duty in the Jewes to keep theſe feaſts, ſo it was not a will-worſhip or ſuperſtition in the *Maccabees* to appoint it, becauſe it was a purſuance of a general Commandement by ſymbolical but uncommanded inſtances. Thus it is commanded to all men to pray: but when *Abraham* firſt inſtituted morning prayer; and *Iſaac* appointed in his family

family the Evening prayer, and *Daniel* prayed three times a-day, and *David* seven times, and the Church kept her Canonical houres, Nocturnal and Diurnal Offices, and some Churches instituted an Office of forty houres, and a continual course of prayer, and Solomon the perpetual ministery of the *Levites*, these all doe and did respectively actions which were not nam'd in the Commandement; but yet they willingly and choosingly offer'd a willing but an acceptable sacrifice, because the instance was a daughter of the law, incouraged by the same reward, serving to the same end, warranted by the same reason, adorn'd with the same piety, eligible for the same usefulness, amiable for the same excellency, and though not commanded in the same tables, yet certainly pleasing to him who as he gave us lawes for our rule, so he gives us his Spirit for our Guide, and our Reason as his Minister.

15. 5. *Whatsoever is aptly and truly instrumental to any act of vertue or grace, though it be no where signified in the law of God, or in our religion, is not will-worship in the culpable sense.* I remember to have read that S. *Benedict* was invited to break his fast in a Vineyard: he intending to accept the invitation betook himself presently to prayer; adding these words, *Cursed is he who first eates before he prayes.* This religion also the Jewes observ'd in their solemn dayes; and therefore wondred and were offended at the Disciples of Christ because that early in the morning of the Sabbath they eate the ears of corn. This and any other of the like nature may be superadded to the words of *the law*, but are no criminal will-worship, because they are within the verge and limits of *it*; *they serve to the ministeries of the chief house.* Thus we doe not finde that *David* had receiv'd a Commandement to build a Temple; but yet the prophet *Nathan* told him from God, that *he did well because it was in his heart to build it*: It was therefore acceptable to God because it ministred to that duty and religion in which God had signified his pleasure. Thus the Jewes serv'd God in building Synagogues or places of prayer besides their Temple; because they were to pray besides their solemn times, and therefore it was well if they had less solemn places. So Abraham pleased God in separating the tenth of his possessions for the service and honour of God; and Jacob pleased the Lord of Heaven and Earth by introducing the religion of Vowes; which indeed was no new religion, but two or three excellencies of vertue and religion dress'd up with order and solemne advantages, and made to minister to the glorification of God. Thus fasting serves religion; and to appoint fasting daies is an act of religion and of the worship of God, not directly, but by way of instrument and ministery. To double our care, to intend our zeale, to enlarge our expence in the adorning and beautifying of Churches is also an act of religion or of the worship of God; because it does naturally signify or express one vertue, and does prudently minister to another; it serves religion, and signifies my love. 1 King. 8. 18.

16. 6. *To abstain from the use of privileges and liberties though it be no where commanded, yet it is alwaies in it self lawful, and may be an act of vertue or religion if it be designed to the purposes of religion or charity.* Thus S. *Paul* said *he would never eat flesh while he did live rather then cause his brother to offend:* and he did this with a purpose to serve God in so doing, and yet it was lawful to have eaten, and he was no where directly com-

manded to have abſtained; and though in ſome caſes it became a duty, yet when he extended it or was ready to have extended it to uncommanded inſtances or degrees, he went not back in his religion by going forwards in his will. Thus not to be too free in uſing or requiring diſpenſations, is a good handmaid to piety or charity, and is let into the kingdome of heaven, by being of the family and retinue of the Kings daughters, the glorious graces of the Spirit of God. Thus alſo to deny to our ſelves the uſe of things lawful in meat and drink and pleaſure, with a deſign of being exemplar to others and drawing them to ſober counſels, the doing more then we are commanded, that we be not tempted at any time to doe leſſe, the ſtanding a great way off from ſin, the changing our courſe and circumſtances of life that we may not loſe or leſſen our ſtate of the Divine grace and favour, theſe are by adoption and the right of cognation accepted as purſuances of our duty and obedience to the Divine Commandement.

17. 7. *Whatſoever is proportionable to the reaſon of any Commandement and is a moral repreſentation of any duty, the obſervation of that cannot of it ſelf be ſuperſtitious.* For this we have a competent warranty from thoſe words of God by the prophet *Nathan* to *David*. *Thou ſhalt not build a houſe to the honour of my Name, becauſe thou art a man of blood.* In proſecution of this word of God, and of the reaſonableneſſe of it, it is very warrantable that the Church of God forbids Biſhops and Prieſts to give ſentence in a cauſe of blood; becauſe in one caſe God did declare it unfit that he who was a man of blood ſhould be imployed in the building of a houſe to God. Upon this account all Undecencies, all unfitting uſages and diſproportionate ſtates or accidents are thruſt out of religion. A Prieſt may not be a fidler, a Biſhop muſt not be a ſhoomaker, a Judge muſt religiouſly abſtain from ſuch things as diſgrace his authority, or make his perſon and his miniſtery contemptible; and ſuch obſervances are very far from being ſuperſtitious, though they be under no expreſſe Commandement.

2 Sam. 7. 5. 1 Chron. 22. 8. & 28. 3.

18. 8. *All voluntary ſervices, when they are obſerved in the ſenſe and to the purpoſes of perfection, are ſo farre from being diſpleaſing to God, that the more uncommanded inſtances and degrees of external duty and ſignification we uſe, the more we pleaſe God.* Οἱ πνευματικοὶ πάντα πρατθουσιν ὑπομονῇ καὶ πόνῳ καὶ τοῦτο δηλοῦσι τῷ καὶ ὑπερβαίνειν τὰ ὑπαγόμενα, *Spiritual men doe their actions with much paſſion and holy zeale, and give teſtimony of it by expreſſing it in the uncommanded inſtances.* And *Socrates* ſpeaking of certain Church offices and rituals of religion, ſayes, ἐπειδὴ οὐδεὶς περὶ τούτου ἔγγραφον ἔχει παράγγελμα, δῆλον ὡς καὶ περὶ τούτου τῇ ἑκάστου γνώμῃ καὶ προαιρέσει ἐπέτρεψαν οἱ Ἀπόστολοι, ἵνα ἕκαστος μὴ φόβῳ μηδὲ ἐξ ἀνάγκης τὸ ἀγαθὸν κατεργάζοιτο, *Since no man hath concerning this thing any written Commandement, it is clear that the Apoſtles permitted it to the choice of every one, that every one may doe good not by neceſſity and feare*] but by love and choice. Such were the free will-offerings among the Jewes, which alwaies might expect a ſpeciall reward, ἃ γὰρ ὑπὲρ τὸν ἐντολὸν γίνεται πολλοῦ ἔχει μισθὸν καὶ τοῦτο, ἃ δὲ ἐν ἐντολῇ τάξει ἐστὶ τοιοῦτον, *Thoſe things which are in the tables of the Commandement ſhall be rewarded, but thoſe which are more then theſe ſhall have a greater*; the reaſon is, becauſe they proceed from a greater intenſion of the inward grace: and although the meaſures of the Commandement were therefore leſs becauſe they were to fit all capacities; yet they who goe farther, ſhew that they are nearer to the perfections of grace

S. Chryſoſt. in Rom. 8.

grace then the first and lowest measures of the Commandement, and therefore are dispos'd to receive a reward greater then they shall have who are the least in the Kingdome of Heaven. But of this I have already given accounts in the foregoing rule, and * otherwhere.

* Doctrine & pract. of Repen. cap. 1.

19. 9. *The circumstance of a religious action may be undertaken or impos'd civilly without being superstitious.* As to worship God is a duty which can never be a superstitious will-worship, so to worship God by bowing the head or knee towards the East or West is a circumstance of this religious worship; and of this there may be lawes made, and the circumstance be determin'd, and the whole action so clothed and vested, that even the very circumstance is in some sense *religious*, but in no sense *superstitious*; for some way or other it must be done, and every mans act is determin'd when it is vested with circumstances, and if a private will may determine it, so may a publick law, and that without fault: but of this in the sequel.

10. The summe is this: Though the instance, the act or state be uncommanded, yet it is not a culpable will-worship, if either it be a probable interpretation of a Divine Commandement, or the use of what is permitted, or the circumstance or appendage to a vertue, or the particular specification of a general law, or is in order to a grace instrumental & ministring to it, or be the defalcation or the not using of our own rights, or be a thing that is good in the nature of the thing, and a more perfect prosecution of a law or grace, that is, if it be a part or a relative of a law: if a law be the foundation, whatsoever is built upon it, growes up towards Heaven, and shall have no part in the evil rewards of superstition.

„ *But that what of it self is innocent or laudable may not be spoil'd by evil*
„ *appendages, it is necessary that we observe the following cautions.*

20. 1. Whatsoever any man does in an uncommanded instance, it must be done with liberty and freedome of conscience; that is, it must not be presſed to other men as a law which to our selves is onely an act of love, or an instrument of a vertue, or the appendage and relative of a grace. It must, I say, be done with liberty of conscience, that is, without imposing it as of it self necessary, or a part of the service of God: and so it was anciently in the matter of worship towards the East: for though generally the Christians did worship toward the East, yet in *Antioch* they worshipped toward the West. But when they begin to have opinions concerning the circumstance, and think that abstracting from the order or the accidental advantage, there is some religion in the thing it self, then it passes from what it ought to what it ought not, and by degrees proves folly and dreames. For then it comes to be a Doctrine and injunction of men. when that is taught to be necessary which God hath left at liberty, and taken from it all proper necessity; it then changes into superstition and injustice; for it is an invading the rights of God and the rights of man; it gives a law to him that is as free as our selves, and usurps a power of making lawes of conscience, which is onely Gods subject and Gods peculiar. *Dogmatizing* and *Censoriousnesse* makes a will-worship to be indeed superstition.

Socrat. lib. 5 c. 22.

In prosecution of this it is to be added, It is as great a sin to teach for doctrines the prohibitions of Men, as the injunctions and commandements; to say that we may not doe what is lawful, as that it is necessary to doe

that which is onely permitted, or is commended. He that impoſes on mens conſcience an affirmative or a negative that God hath not impoſed, is equally injurious, and equally ſuperſtitious; and we can no more ſerve or pleaſe God in abſtaining from what is innocent, then we can by doing what he hath not commanded. He that thinks he ſerves God by looking to the Eaſt when he prayes, and believes all men and at all times to be oblig'd to doe ſo, is a ſuperſtitious man: but he who believes this to be ſuperſtition, and therefore turns from the Eaſt, and believes it alſo to be neceſſary that he do not look that way, is equally guilty of the ſame folly; and is like a traveller that ſo long goes from the Eaſt, that he comes to it by his long progreſſion in the circle. If by the law of God it be not ſinful, or if by the law of God it be not neceſſary, no doctrines of men can make it ſo: to call good evil, or evil good, is equally hateful to God: and as every man is bound to preſerve his liberty that a yoke be not impoſed upon his conſcience, and he be tied to do what God hath left free; ſo he is oblig'd to take care that he be not hindred, but ſtill that he may doe it if he will. That this no way relates to humane laws I ſhall afterwards diſcourſe: I now onely ſpeak of impoſition upon mens underſtandings, not upon their wills or outward act. He that ſayes that without a ſurplice we cannot pray to God acceptably, and he that ſayes we cannot well pray with it, are both to blame; but if a poſitive law of our ſuperiour intervenes, that's another conſideration: for, *quædam quæ licent, tempore & loco mutato non licent*, ſaid *Seneca*; and ſo on the contrary, that may be lawful or unlawful, neceſſary or unneceſſary, accidentally, which is not ſo in its own nature and the intentions of God.

21. 2. Whatſoever pretends to lawfulneſs or praiſe by being an inſtrument of a vertue and the miniſter of a law, muſt be an apt inſtrument, naturally, rationally, prudently, or by inſtitution ſuch as may doe what is pretended. Thus although in order to prayer I may very well faſt, to alleviate the body & make the ſpirit more active & untroubl'd; yet againſt a day of prayer I will not throw all the goods out of my houſe, that my dining-room may look more like a Chappel, or the ſight of worldly goods may not be in my eye at the inſtant of my devotion: becauſe as this is an uncommanded inſtance, ſo it is a fooliſh and an unreaſonable inſtrument. The inſtrument muſt be ſuch as is commonly uſed by wiſe and good men in the like caſes, or ſomething that hath a natural proportion and efficacy to the effect.

22. 3. Whatſoever pretends to be a ſervice of God in an uncommanded inſtance, by being the ſpecification of a general command, or the inſtance of a grace, muſt be naturally and univocally ſuch, not equivocally and by pretenſion onely: of which the beſt ſign is this, If it be againſt any one commandement directly or by conſequent, it cannot acceptably purſue or be the inſtance of any other. Thus when the Gnoſticks abuſed their Diſciples by a pretenſe of humility, telling them that they ought by the mediation of Angels to preſent their prayers to God the Father, and not by the Son of God, it being too great a preſumption to uſe his name and an immediate addreſs to him (as S. *Chryſoſtome*, *Theophylact*, and *OEcumenius* report of them) this was a culpable will-worſhip, becauſe the relation it pretended to humility was equivocal and ſpurious, it was expreſly againſt an article of faith * and a Divine Commandement. So did the *Pythagoreans* in their pretenſions to mortification; they commanded to abſtain from marriages,

* Joh. 16. 23.

marriages, from flesh, from fish, as unclean, and ministeries of sin, and productions of the Devil. Both these the Apostle reproves in his epistle to the Colossians; and therefore condemns all things of the same unreasonableness.

23. 4. All uncommanded instances of piety must be represented by their own proper qualities, effect and worthiness; that is, if all their worth be relative, they must not be taught as things of an absolute excellency, or if it be a matter of abstinence from any thing that is permitted, and that abstinence be by reason of danger or temptation, error or scandal, it must not be pressed as abstinence from a thing that is simply unlawful, or the duty simply necessary. Thus the *Encratites* and *Manichees* were superstitious persons, besides their heresie; because although they might lawfully have abstain'd from all ordinary use of wine, in order to temperance and severe sobriety, yet when they began to say, that such abstinence was necessary, and all wine was an abomination, they pass'd into a direct superstition, and a criminal wil-worship. While the *Novatians* denied to reconcile some sort of lapsed criminals, they did it for discipline and for the interests of a holy life, they did no more then divers parts of the Church of God did; but when that discipline, which once was useful, became now to be intolerable, and that which was onely matter of Government became also matter of doctrine, then they did that which our blessed Saviour reproved in the Pharisees, *they taught for doctrines the injunctions of men*, and made their wil-worship to be superstition.

24. 5. When any uncommanded instance relative to a Commandement is to be performed, it ought to be done temperately and according to its own proportion and usefulness: for if a greater zeal invites us to the action, we must not give the reins and liberty to that zeal, and suffer it to pass on as far as it naturally can; but as far as piously and prudently it ought. He that gives alms to the poor, may upon the stock of the same vertue spare all vain or less necessary expence and be a good husband to the poor, and highly please God with these uncommanded instances of duty: but then he must not prosecute them beyond the reason of his own affairs, to the ruine of his relations, to the danger of temptation. To pray is good; to keep the continual sacrifice of morning and evening devotions is an excellent specification of the duty of [*pray continually:*] now he that prayes more frequently does still better, but there is a period beyond which the multiplication and intension of the duty is not to extend. For although to pray nine times is more then is describ'd in any diurnal or nocturnal office; yet if a man shall pray nine and twenty times, and prosecute the excess to all degrees which he naturally can, and morally cannot, that is, ought not, his will-worship degenerates into superstition; because it goes beyond the natural and rational measures, which though they may be enlarged by the passions of Religion, yet must not pass beyond the periods of reason, and usurp the places of other duties civil and religious.

25. If these measures be observ'd, the voluntary and uncommanded actions of religion, either by their cognation to the laws, or adoption into obedience, become acceptable to God, and by being a voluntary worship, or an act of religion proceeding from the will of man, that is, from his love and from his desires to please God, are highly rewardable: εἰ γὰρ ἑκὼν τοῦτο πράσσω

πράσσω, μισθὸν ἔχω, said S. *Paul*, If I doe this thing with a voluntary act or free choice, then I have a reward. And that no man may be affrighted
Isa. 1. 11, 12, 13 with those words of God to the Jews, *who hath requir'd these things at your hands?* as if every thing were to be condemned concerning which God could say, *Quis requisivit?* meaning, that he never had given a commandement to have it done; it is considerable, that God speaks not of voluntary, but of commanded services; he instances in such things which himself had requir'd at their hands, *their sacrifices of bulls and goats*, their *new moons and solemn assemblies*, their *sabbaths and oblations:* but because they were not done with that piety & holiness as God intended, God takes no delight in the outward services: so that this condemns the unholy keeping of a law, that is, observing the body, not the spirit of religion; but at no hand does God reject voluntary significations of a commanded duty, which proceed from a well-instructed and more loving spirit, as appears in the case of vows and free-will-offerings in the Law; which although they were will-worshippings, or voluntary services, and therefore the matter of them was not commanded, yet the religion was approved. And if it be objected that these were not will-worshippings because they were recommended by God in general; I reply, Though they were recommended, yet they were left to the liberty and choice of our will, and if that recommendation of them be sufficient to sanctifie such voluntary religion, then we are safe in this whole question; for so did our blessed Saviour in the Gospel, as his Father did in the Law, *Qui potest capere capiat*; and
1 Cor. 7. 37. *he that hath ears to hear, let him hear*; and so saith S. *Paul*, *He that standeth fast in his heart*, that is, hath perfectly resolved and is of a constant temper, *having no necessity, but hath power over his own will, and hath judged in his heart that he will keep his virgin, doth well.* But the ground of all is this; all voluntary acts of worship or religion are therefore acceptable *quia fundamentum habent in lege Divina*, Gods law is the ground of them; that's the Canon, and these will-worshippings are but the Descant upon the plain-song: some way or other they have their authority and ground from the law of God; For

26. *Whatsoever hath its whole foundation in a persuasion that is meerly humane, and no waies relies upon the Law or the expressed will of God, that is will-worship in the criminal sense*, that is, *it is superstition.* So the vulgar Latine and *Erasmus* render the word ἐθελοθρησκία, or *will-worship*; and they both signifie the same thing, when will-worship is so defin'd: but if it be defin'd by [*a religious passion or excess in uncommanded instances relating to, or being founded in the Law and will of God,*] then will-worship signifies nothing but what is good, and what is better; it is a free-will-offering ἀκριβεστάτη αἵρεσις τῆς θρησκείας, like the institution under which S. *Paul* was educated, *the strictest and exactest sect of the religion*, and they that live accordingly, are ἑκουσιαζόμενοι τῷ νόμῳ *the voluntary and most willing subjects of the law.* So that although concerning some instances it can be said, τὸ μὲν ἔξω ὅπ. ταγμα, this is directly a commandement; and concerning others, τὸ δὲ τῆς ἐμῆς προαιρέσεως κατόρθωμα, this is a vertuous or a right action of my choice; yet these are no otherwise oppos'd then as *in* and *super*, for the one are ἐν τῇ ἐντολῇ τάξει in the order and constitution of the commandement, the other ὑπὲρ τὴν ἐντολήν (as S. *Chrysostome* expresses it) are above the commandement, yet all are in the same form or category: it is within the same limits & of the same nature, and to the same ends, and

and by the same rule, and of the same holinesse, and by a greater love; that's all the difference: and thus it was from the beginning of the world, in all institutions and in all religions, which God ever lov'd.

27. I onely instance in the first ages and generations of mankinde, because in them there is pretended some difficulty to the question. *Abel* offer'd sacrifice to God, and so did *Cain*; and in the dayes of *Enoch* men began to call upon the name of the Lord; * and a priesthood was instituted in every family, and the *Major-domo* was the Priest, and God was worshipped by consumptive oblations: and to this they were prompted by natural reason, and for it there was no command of God. [a] So S. *Chrysostome*, οὐδὲ ὑφέ τινος μαθὼν, οὐδὲ νόμου. ὑφὲ ἀπαρχῶν διαλεγομένου ταῦτα ἀκούσας, ἀλλ' οἰκοθεν καὶ παρὰ τοῦ σωζοντος διδαχθεὶς, τῳ θεῳ θυσίαν ἐκείνῳ ἀνένεγκε· Abel *was not taught of any one, neither had he receiv'd a law concerning the oblation of first-fruits; but of himself and moved by his Conscience he offer'd that sacrifice:* and [b] the Author of the answers *ad Orthodoxos* in the workes of *Justin Martyr* affirmes, οὐδεὶς τῶν θυσάντων τὰ ἄλογα θυσίαν τῷ θεῷ πρὸ τοῦ νόμου μετὰ τὴν θείαν διάταξιν ἔθυσε, κἂν φαίνεται ὁ θεὸς τούτῳ προσδεξάμενος τὴν ταύτης ἀπαρχὴν δι' ἀγγέλων τὸν θυσαντα εὐάρεστον αὐτῷ, *They who offer'd to God before the law the sacrifice of beasts did not do it by a Divine Commandement, though God by accepting it gave testimony that the person who offered it was pleasing to him.* What these instances doe effect or prove we shall see in the sequel; in the mean time I observe that they are by men of differing perswasions us'd to contrary purposes. Some there are that suppose it to be in the power of men to appoint new instances and manners of religion, and to invent distinct matters and formes of Divine worship; and they suppose that by these instances they are warranted to say, *that we may in religion doe whatsoever by Natural reason we are prompted to*; for *Abel* and *Cain* and *Enoch* did their services upon no other account. Others that suspect every thing to be superstitious that is uncommanded, and believe all sorts of will-worship to be criminal, say, that if *Abel* did this wholy by his natural reason and religion, then *this religion being by the law of Nature was also a command of God*; so that still it was done by the force of a law, for a law of Nature being a law of God, whatsoever is done by that is necessary, not will-worship, or an act of choice and a voluntary religion.

* *Multi commentariorum & controversiarum scriptores ex his verbis eliciunt, homines illius seculi novos ritus, novas ceremonias & religionis formas instituisse; quia scil. certum est, ab exordio humani generis homines Deum coluisse, atque adeò invocasse nomen Domini. Hoc ergo quod quasi de novo factum recenseatur, est institutio novorum rituum, quibus quasi de proprio Deum colere voluerunt. At notandum est in horum verborum sensu nihil esse certiù quod ad hanc rem possit pertinere. Nam passim in Hebræorum cõmentariis seculum Enoch tanquam impium memoratur: Et Hebræi exponere solebant hunc locum quasi sensus esset, tunc cum Enoch natus esset homines profanasse nomen Domini invocando nomen ejus super Creaturas, sic n. verbum* חוּל, *derivatum scil. à voce Colin, i. e. profana, profanasse interpretati sunt: homines scil. tunc cœpisse appellare filios hominum, & animalia, & herbas nomine Dei sancti benedicti. Abenezra a. & Abrabanel simpliciorem horum verborũ sensum retinuerunt: experunt scil. commemorare creatorem suum, & ad nomen ejus opera & orationes dirigere.* a 12 de Statuis. b ad Quæst. 83.

28. Now these men divide the truth between them. For it is not true that *whatsoever is taught us by Natural reason, is bound upon us by a Natural law:* which proposition although I have already prov'd competently, yet I shall not omit to adde some things here to the illustration of it, as being very material to the present question and rule of Conscience. *Socinus* the lawyer affirm'd Reason to be the Natural law, by which men are inclin'd first, and then determin'd to that which is agreeable to reason. But this cannot be true, least we should be constrain'd to affirme that God hath left the government of the world to an uncertain and imperfect guide; for nothing so differs as the reasonings of men, and a man may doe according to

to his reaſon, and yet doe very ill. *Sicut omnis citharœdi opus eſt citharam pulſare, periti verò ac probè docti rectè pulſare: ſic hominis cujuſcunq; eſt agere cum ratione, probi verò hominis eſt rectè cum ratione operari.* So *Ariſtotle.* Ethic. l. 1. c. 7. It is the work of every Muſician to play upon his inſtrument; but to play well requires art and skil: ſo every man does according to reaſon; but to doe righteous things, and according to right reaſon, muſt ſuppoſe a wiſe and a good man. The conſequent of this is, that reaſon is not the natural law, but reaſon when it is rightly taught, well ordered, truly inſtructed, perfectly commanded; the law is it that binds us to operate according to right reaſon, and commands us we ſhould not decline from it. He that does according to the natural law, or the law of God, does not, cannot doe amiſſe: but when reaſon alone is his warrant and his guide, he ſhall not alwaies find out what is pleaſing to God. And it will be to no purpoſe to ſay, that not every mans reaſon, but right reaſon ſhall be the law. For every man thinks his own reaſon right, and whole nations differ in the aſſignation and opinions of right reaſon; and who ſhall be Judge of all, but God, and he that is the Judge muſt alſo be the law-giver, elſe it will a be ſad ſtory for us to come under his Judgement, by whoſe lawes and meaſures we were not wholly directed. If God had commanded the Prieſts pectoral to be ſet with rubies, and had given no inſtrument of diſcerning his meaning but our eyes, a red cryſtal or ſtained glaſſe would have paſs'd in ſtead of rubies: But by other meaſures then by ſeeing we are to diſtinguiſh the precious ſtone from a bright counterfeit. As our eyes are to the diſtinction of viſible objects, ſo is our reaſon to ſpiritual, the inſtrument of judging, but not alone; but as reaſon helps our eyes, ſo does revelation informe our reaſon; and we have no law till by revelation or ſome ſpecifick communication of his pleaſure God hath declar'd and made a law. * Now all the law of God which we call natural is *reaſon*, that is, ſo agreeable to natural and congenit reaſon, that the law is in the matter of it written in our hearts before it is made to be a law. *Lex eſt Naturæ vis, & ratio prudentis, juris atque injuriæ regula.* So *Cicero lib.* 1. *de leg.* But though all the law of Nature be reaſon; yet whatſoever is reaſon is not preſently a law of Nature. And therefore that I may return to the inſtances we are diſcourſing of, it followes not that although *Abel* and *Cain* and *Enoch* did doe ſome actions of religion by the dictate of natural reaſon, that therefore they did it by the law of nature: for every good act that any man can doe is agreeable to *right reaſon*, but every act we doe *is not by a law*, as appears in all the inſtances I have given in the explication and commentaries on theſe two laſt rules. Secondly, On the other ſide it is not true, that *we may doe it in religion whatſoever we are prompted to by natural reaſon.* For although natural reaſon teaches us that God is to be lov'd, and God is to be worſhipped, that is, it tells us he is our ſupreme, we his creatures and his ſervants; we had our being from him, and we ſtill depend upon him, and he is the end of all who is the beginning of all, and therefore whatſoever came from him muſt alſo tend to him; and whoſoever made every thing, muſt needs make every thing for himſelf, for he being the fountain of perfection, nothing could be good but what is

* *Lex Dei mentem noſtram incendens, eam ad ſe pertrahit, conſcientiámque noſtram vellicat quæ & ipſa mentis noſtræ lex dicitur. Damaſcen. lib.* 4. *cap.* 23. *de fide. ubi Clichtovæus ſic exponit, lex mentis noſtræ eſt ipſa naturalis ratio* Dei legem *habens ſibi inditam, impreſſámq; & inſtam qui bonum à malo interno lumine dijudicamus. S. Hieronymus epiſt.* 151. *ad Algaſ. q.* 8. *hanc legē appellat legem intelligentiæ, quam ignorat puerilis, neſcit infantia, tunc advenit & præcipit, quando incipit intelligentia. F. Maximus tom.* 5. *Biblioth. centur.* 5. *c.* 13. *Lex naturæ eſt ratio naturalis, quæ captivum tenet ſenſum ad delendam vim irrationalem. Hoc dixit imperfectè, quia ratio naturalis tantùm eſt materia legis naturalis. Rectius a. S.* Auguſtinus, *l.* 2. *de ſermone Domini in monte, Nullam animam eſſe quæ ratiocinari poſſit, in cujus conſcientia non loquatur Deus: quis n. legem naturalem in cordibus hominum ſcribit niſi Deus? hoc ſcil. innuens non rationē ſolam, ſed Deum loquentem ex principiis noſtræ rationis ſanxiſſe legem. Idem dixit explicatius, l.* 22. *contr. Fauſtum c.* 27. *legem æternam eſſe Divinam rationem vel voluntatem ordinem naturalem cōſervari jubentem perturbari vetantem.*

is *from*, and *for*, and *by*, and *to* that fountain, and therefore that every thing must in it's way honour and serve and glorify him: now I say, although all this is taught us by *natural reason*, by this reason we are taught that God must be worshipped; yet that cannot tell us *how* God will be worshipped. *Natural reason* can tell us what is our obligation, because it can discourse of our nature and production, our relation and minority; but *Natural reason* cannot tell us by what instances God will be pleas'd with us, or prevail'd with to doe us new benefits; because no natural reason can informe us of the will of God, till himself hath declar'd that will. *Natural reason* tels us we are to obey God; but *Natural reason* cannot tell us in what positive commandements God will be obeyed, till he declares what he will command us to doe and observe. So though by Nature we are taught that we must worship God; yet by what significations of duty, and by what actions of religion this is to be done, depends upon such a cause as nothing but it self can manifest and publish.

29. And this is apparent in the religion of the old world, the religion of sacrifices and consumptive oblations; which it is certain themselves did not choose by natural reason, but they were taught and injoyn'd by God: for that it is no part of a natural religion to kill beasts, and offer to God Wine and Fat, is evident by the nature of the things themselves, the cause of their institution, and the matter of fact, that is the evidence that they came in by positive constitution. For blood was anciently the sanction of lawes and Covenants, *Sanctio à Sanguine* say the Grammarians; because the sanction or establishment of lawes was it which bound the life of man to the law, and therefore when the law was broken, the life or the blood was forfeited: bt then as in Covenants, in which sometimes the wilder people did drink blood, the gentler and more civil did drink wine, the blood of the grape; so in the forfeiture of lawes they also gave the blood of beasts in exchange for their own. Now that this was lesse then what was due is certain, and therefore it must suppose remission and grace, a favourable and a gracious acceptation; which because it is voluntary and arbitrary in God, less then his due, and more then our merit, no natural reason can teach us to appease God with sacrifices. It is indeed agreeable to reason that blood should be pour'd forth, when the life is to be paied, because the blood is the life; but that one life should redeem another, that the blood of a beast should be taken in exchange for the life of a man, that no reason naturally can teach us. *Ego verò destinavi eum vobis in altare ad expiationem faciendam pro animis vestris: nam sanguis est qui pro anima expiationem facit*, said God by *Moses*. The life of the flesh is in the blood; and I have given it to you upon the Altar to make an atonement for your Souls: for it is the blood that maketh an atonement for the Soule: according to which are those words of S. *Paul*, *without shedding of blood there is no remission*; meaning that in the Law, all expiation of sins was by sacrifices, to which Christ by the sacrifice of himself put a period. But all this Religion of sacrifices, was (I say) by Gods appointment; *Ego verò destinavi*, so said God, I have design'd or decreed it: but that this was no part of a law of nature, or of prime, essential reason appears in this, * 1. Because God confin'd it among the Jewes to the family of *Aaron*, and that onely in the land of their own inheritance, the land of promise; which could no more be done in a natural religion then the Sun can be confin'd to a village-Chappel. * 2. Because God did expres oftentimes that he took no delight in Sacrifices of Beasts; as appears in *Psalm* 40. and *Psal.* 50. and

Levit. 17. 11.

Pſal. 51. *Iſai.* 1. *Jerem.* 7. *Hoſea* 6. *Micah* 6. * 3. Becauſe he tells us in oppoſition to ſacrifices and external rites, what that is which is the natural and eſſential religion in which he does delight; the *ſacrifice of prayer and thanksgiving, a broken and a contrite heart*; that we ſhould *walk in the way he hath appointed*; that we ſhould doe *juſtice and judgment, and walk humbly with our God:* He deſires *mercy and not ſacrifice, and the knowledge of God more then burnt-offerings.* 4. Becauſe *Gabriel* the Archangel foretold that the *Meſſias* ſhould make the daily ſacrifice to ceaſe. 5. Becauſe for above 1600. years God hath ſuffered that nation to whom he gave the law of ſacrifices to be without Temple, or Prieſt, or Altar, and therefore without Sacrifice.

30. But then if we inquire why God gave the law of ſacrifices, and was ſo long pleas'd with it; the reaſons are evident and confeſs'd. 1. Sacrifices were types of that great oblation which was made upon the altar of the Croſſe. 2. It was an expiation which was next in kind to the real forfeiture of our own lives: it was blood for blood, a life for a life, a leſſe for a greater; it was that which might make us confeſſe Gods ſeverity againſt ſin, though not feel it; it was enough to make us hate the ſin, but not to ſink under it; it was ſufficient for a fine, but ſo as to preſerve the ſtake; it was a manuduction to the great ſacrifice, but ſuppletory of the great loſſe and forfeiture; it was enough to glorify God, and by it to ſave our ſelves; it was inſufficient in it ſelf, but accepted in the great ſacrifice; it was enough in ſhadow, when the ſubſtance was ſo certainly to ſucceed. 3. It was given the Jewes ὅπως πεζόμβοι, καὶ ὑπὸ κλοιῶ ἀγχόμβοι, τῇ πολυθέῳ πλάνῃ ἐκχῶσι, as the Author of the Apoſtolical conſtitutions affirmes, that being loaden with the expence of ſacrifices to one God, they might not be greedy upon the ſame terms to run after many: and therefore the ſame Author affirmes, *before their golden calfe and other idolatries, Sacrifices were not commanded to the Jewes, but perſwaded onely*; recommended, and left unto their liberty. By which we are at laſt brought to this truth, That it was taught by God to *Adam*, and by him taught to his poſterity, that they ſhould in their ſeveral manners worſhip God by giving to him ſomething of all that he had given us; and therefore ſomething of our time, and ſomething of our goods: and as that was to be ſpent in praiſes and celebration of his name, ſo theſe were to be given in conſumptive offerings; but the manner and the meaſure was left to choice, and taught by ſuperadded reaſons and poſitive lawes: and in this ſenſe are thoſe words to be underſtood which above I cited out of *Juſtin Martyr* and S. *Chryſoſtom.* To this purpoſe *Aquinas* cites the gloſſe upon the ſecond of the *Coloſſians*, ſaying, *Ante tempus legis juſtos per interiorem inſtinctum inſtructos fuiſſe de modo colendi Deum, quos alii ſequebantur; poſtmodum verò exterioribus præceptis circa hoc homines fuiſſe inſtructos, quæ præterire peſtiferum eſt.* Before the Law the righteous had a certain inſtinct by which they were taught how to worſhip God, to wit in the actions of internal religion; but afterwards they were inſtructed by outward precepts. That is, the natural religion conſiſting in praiers & praiſes, in ſubmitting our underſtandings and ſubjecting our wills, in theſe things the wiſe Patriarchs were inſtructed by right reaſon and the natural duty of Men to God: but as for all external religions, in theſe things they had a Teacher and a guide; of theſe things they were to doe nothing of their own heads. In whatſoever is from within there can be no Will-worſhip, for all that the Soul can doe is Gods right; and no act of faith or hope in God,

Lib. 6. c. 18.

Num. 7.

God, no charity, no degree of charity, or confidence, or desire to please him can be superstitious. But because in outward actions there may be undecent expressions or unapt ministeries, or instances not relative to a law of God or a Councel Evangelical, there may be irregularity and obliquity, or direct excesse, or imprudent expressions, therefore they needed Masters and Teachers, but their great teacher was God. *Deum docuisse Adam cultum divinum quo ejus benevolentiam recuperaret quam per peccatum transgressionis amiserat; ipsumque docuisse filios suos dare Deo decimas & primitias*, said *Hugo de S. Victore*. God taught *Adam* how to worship him, and by what means to recover his favour, from which he by transgression fell (the same also is affirmed by S. *Athanasius* * :) but that which he addes, that *Adam* taught his children to give first-fruits and tenths, I know not upon what authority he affirmes it. Indeed Josephus seemes to say something against it: ὁ θεὸς ὁ τούτῳ μᾶλλον ἥδεται τῇ θυσίᾳ τοῖς αὐτομάτοις καὶ κατὰ φύσιν γεγόσιν τιμωμένῳ, ἀλλ' ὑ τοῖς καθ' ἐπίνοιαν ἀνθρώπω πλεονέκτῃ καὶ βίαν πεφυκόσι, God is not pleas'd so much in oblation of such things which the greedinesse and violence of man forces from the Earth, such as are corne and fruits; but is more pleas'd with that which comes of it self naturally and easily, such as are cattel and sheep. And therefore he supposes God rejected *Cain* and accepted *Abel*, because *Cain* brought fruits which were procur'd by labour and tillage; but *Abel* offered sheep, which came by the easy methods and pleasing ministeries of Nature. It is certain *Josephus* said not true, and had no warrant for his affirmative: but that which his discourse does morally intimate is very right, that the things of mans invention please not God; but that which comes from him we must give him again, and serve him by what he hath given us, and our religion must be of such things as come to us from God: it must be obedience or compliance; it must be something of meer love, or something of love mingled with obedience: it is certain it was so in the instance of *Abel*.

* In Epist. de perfidia Eutychis & libro super illud, *Omnia mihi tradita sunt.*

Antiq. Jud. l. 1. c. 3.

31. And this appears in those words of S. *Paul*, *By faith* Abel *offer'd sacrifice*: it was not therefore done by choice of his own head; but *by the obedience of faith*, which supposes revelation and the command or declaration of the will of God. And concerning this, in the traditions and writings of the Easterlings, we find this story. In the beginning of mankind, „ when *Eve* for the peopling of the world was by God so bless'd in the „ production of Children that she alwaies had twins before the birth of „ *Seth*, and the twins were ever male and female, that they might inter- „ changeably marry, *ne gens sit unius ætatis populus virorum*, lest mankinde „ should expire in one generation; *Adam* being taught by God did not „ allow the twins to marry, ἃς ἡ μὲν φύσις ἅμα τῇ γενέσει διῄρησα καὶ διέζευξε, „ *whom nature her self by their divided birth had separated and divided*; „ but appointed that *Cain* should marry the twin-sister of *Abel*, and *Abel* „ should marry *Azron* the twin-sister of *Cain*: But *Cain* thought his own „ twin-sister the more beautifull, and resolved to marry her. *Adam* there- „ fore wished them to inquire of God by sacrifice; which they did: and „ because *Cains* sacrifice was rejected, and his hopes made void, and his „ desire not consented to, he kill'd his Brother *Abel*; whose twin-sister „ afterwards fell to the portion of *Seth*, who had none of his owne. Upon this occasion sacrifices were first offered. Now whether God taught the religion of it first to *Adam*, or immediately to *Cain* and *Abel*, yet it is

Hebr. 11

certain from the Apoſtle (upon whom we may relie, though upon the tradition of the Eaſterlings we may not) that *Abel* did his religion from the principle of faith; and therefore that manner of worſhipping God did not conſiſt onely in manners, but in ſupernatural myſtery; that is, all External formes of worſhipping are no parts of moral duty, but depend upon divine inſtitution and divine acceptance: and although any external rite that is founded upon a natural rule of vertue may be accepted into religion, when that vertue is a law; yet nothing muſt be preſented to God but what himſelf hath choſen ſome way or other. *Superſtitio eſt quando traditioni humanæ Religionis nomen applicatur*, ſaid the Gloſſe [*in Coloſſ.* 2.] when any tradition or invention of man is called *Religion*, the proper name of it is *ſuperſtition*; that is, when any thing is brought into Religion and is it ſelf made to be a worſhip of God, it is a *will-worſhip* in the Criminal ſenſe. *Hanc video ſapientiſſimorum fuiſſe ſententiam, legem neque hominum ingeniis excogitatam, neque ſcitum aliquod eſſe populorum, ſed æternum quiddam, quod univerſum mundum regeret, imperandi prohibendique ſapientia. Ita principem legem illam, & ultimam mentem eſſe dicebant omnia ratione aut cogentis aut vetantis Dei*, ſaid *Cicero*. Neither the wit of man, nor the conſent of the people is a competent warranty for any prime law; for law is an eternal thing, fit to governe the world, it is the wiſdome of God commanding or forbidding. Reaſon indeed is the aptneſs, the diſpoſition, the capacity and matter of the eternal law; but the life and forme of it is the command of God. *Every plant which my Heavenly Father hath not planted ſhall be rooted up.* Some plants ariſe from ſeed, ſome from ſlips and ſuckers, ſome are grafted, and ſome inoculated; and all theſe will grow, and bring forth pleaſing fruit; but if it growes wild, that is, of its own accord, the fruit is fit for nothing, and the tree is fit for burning.

Lib. 1. & lib. 2. de legibus. Vide infrà, dial. 10. de legibus.

Rule XIV.

The Chriſtian law both of Faith and Manners is fully contained in the Holy Scriptures; and from thence onely can the Conſcience have divine Warrant and Authority.

1. OF the perfection and fulneſs of the Chriſtian law I have already given accounts; but where this law is recorded, and that the Holy Scriptures are the perfect and onely *Digeſt* of it, is the matter of the preſent Rule, which is of great uſe in the *Rule* of *Conſcience*; becauſe if we know not where our Rule is to be found, and if there can be ſeveral Tables of the law pretended, our obedience muſt be by chance or our own choice, that is, it cannot be obedience, which muſt be voluntary in the ſubmiſſion, and therefore *cannot be chance*, and it muſt be determin'd by the ſuperior, and therefore *cannot be our own antecedent choice*, but what is choſen for us.

2. That the Holy Scriptures of the Old and New Teſtament doe contain the whole will and law of God is affirmed by the primitive Fathers, and

and by all the reformed Churches; that the Scriptures are not a perfect Rule of Faith and manners, but that Tradition is to be added to make it a full repository of the Divine will, is affirmed by the Church of *Rome*. For the establishing of the truth in this great rule and directory of Conscience, I shall first shew, as matter of fact, that the Church of God in all the first and best ages, when tradition could be more certain, and assent to it might be more reasonable, did nevertheless take the Holy Scriptures for their onely rule of faith and manners. 2. Next, I shall shew what use there was of Traditions. 3. That the topick of traditions, after the consignation of the Canon of Scripture, was not onely of little use in any thing, but false in many things, and therefore unsafe in all questions; and as the world grew older, traditions grew more uncertain, and the argument from tradition was intolerably worse.

3. 1. *That the first ages of the Church did appeale to Scripture in all their questions*, I appeale to these testimonies. S. *Clemens* of *Alexandria* hath these excellent words, Ου γὰρ ἁπλῶς ἀποφαινομένοις ἀνθρώποις προσέχομεν, οὐδὲ ἀναπεφανεῶσθαι ἐπ' ἴσης ἕξειν· εἰδ' ἐκ ἀρκεῖ μόνον ἁπλῶς εἰπεῖν τὸ δόξαν, ἀλλὰ πιστωθῆναι δεῖ τὸ λεχθὲν, ἢ τῶν ἐξ ἀνθρώπων ἀναμένωμεν μαρτυρίαν, ἀλλὰ τῇ τοῦ Κυρίου φωνῇ πιστώμεθα τὸ ζητούμενον, ἣ πασῶν ἀποδείξεων ἐχεγγυοτέρα μᾶλλον ἢ ἡμῶν ἀπόφασις ἔσται τυχόν, *It is not fit that we should simply attend to the affirmatives of men, for our Nay may be as good as their Yea. But if the thing be matter of faith, and not of opinion onely, let us not stay for a testimony of man, but confirme our question by the word of God; which is the most certain of all, or is indeed rather the onely demonstration.* Now that there may be no starting-hole from these words of the Saint, I onely adde this, that it is plain from the whole order of his discourse that he speakes onely of *the word of God written*. For the words before are these, *Do they take away all demonstration, or doe they affirme that there is any? I suppose they will grant there is some; unless they have lost their senses. But if there be any demonstration, it is necessary that we make inquiry* καὶ ἐκ τῶν ἀληθῶν γραφῶν ἐκμανθάνειν ἀποδεικτικῶς, *and from the Scriptures to learne demonstratively.* And a litle after he addes, *they that imploy their time about the best things, never give over their searching after truth* πρὶν ἂν τῶν ἀποδείξεων ἀπ' αὐτῶν λάβωσι τῶν γραφῶν, *untill from the Scriptures they have got a demonstration.* He speakes against the Gnosticks, who pretended to secret traditions from I know not who: against them he advises Christians καλαγηράσαι τὰς γραφὰς, ἀποδείξεις ἐπιζητεῖν, *to wax old in the Scriptures*, thence *to seek for demonstrations*, and by that rule to frame our lives. Clem. Alex. stromat. 7.

4. S. *Basil* in his *Ethics defin.* 26. Δεῖ πᾶν ῥῆμα ἢ πρᾶγμα πιστοῦσθαι τῇ μαρτυρίᾳ τῆς θεοπνεύστου γραφῆς, εἰς πληροφορίαν μὲν τῶν ἀγαθῶν, ἐντροπὴν δὲ τῶν πονηρῶν, *whatsoever is done or said ought to be confirmed by the testimony of the Divinely-inspired Scripture; both for the ful perswasion of the good, as also for the condemnation of the evil:* πᾶν ῥῆμα ἢ πρᾶγμα, that is, *every thing* that belongs to faith and manners, not every indifferent thing, but *every thing* of duty; not every thing of a man, but *every thing* of a Christian; not things of natural life, but of the supernatural. Which sense of his words clearly excludes the necessity of tradition, and yet intends not to exclude either liberty, or humane lawes, or the conduct of prudence.

5. To the like purpose is that of *Origen*: *Debemus ergo ad testimonium*

in Matth. tract. 5. *verborum quæ proferimus in doctrina, proferre ſenſum ſcripturæ, quaſi confirmantem quem exponimus ſenſum,* we ought to bring Scripture for the confirmation of our expoſition: which words of his are very conſiderable to thoſe who are earneſt for our admittance of traditive interpretation of Scriptures. Concerning which in paſſing by (becauſe it will be nothing to the main inquiry, which is not how Scripture is to be underſtood, but whether being rightly underſtood it be a ſufficient rule of faith and manners) I ſhall give this account: That beſides there are (I mean in matters of faith, not in matters ritual and of government) no ſuch traditive commentaries; there being no greater variety and difference amongſt the ancient and modern writers commonly and reſpectively in any thing than in their expoſitions of Scripture; no where ſo great liberty, no where ſo little agreement; beſides this, I ſay, that they are in commentaries of Scripture to be lookt upon as ſo many ſingle perſons, becauſe there was no publick authentick commentary any where, no aſſemblies in order to any ſuch expoſitions, no tradition pretended for the ſenſe of controverted places; but they us'd right reaſon, the analogy of faith, the ſenſe of the words, and the notice of the originals, and ſo they expounded certainly or probably according as it hapned, according to that of S. *Athanaſius* *Sunt verò etiam multi Sanctorum Magiſtrorum libri in quos ſi quis incurrat aſſequetur quodammodo ſcripturarum interpretationem,* There are many bookes of the holy Doctors, upon which if one chance to light, he may in ſome meaſure attain to the interpretation of the Scriptures. But when they (according to *Origens* way here deſcribed) confirmed an expoſition of one place by the doctrine of another, then and then onely they thought they had the ἀπόδειξις γραφικὴ the Scripture-demonſtration, and a matter of faith and of neceſſary belief, and that this was the duty of the Chriſtian Doctors, *Origen* does expreſsly affirme. „ Afterwards, as „ *Pauls* cuſtome is he would verify from the holy Scriptures what he had „ ſaid; ſo alſo giving an example to the Doctors of the Church, that „ what they ſpeak to the people ſhould not be of their own ſenſe, but „ confirmed by divine teſtimonies: For if he, ſuch and ſo great an Apoſtle, „ did not ſuppoſe his own authority ſufficient warrant to his ſayings, unleſs he make it appear that what he ſayes is written in the Law and the „ Prophets: how much more ought we little ones obſerve this, that we „ doe not bring forth ours, but the ſentences of the holy Spirit, viz. from Scripture; for that was the practice of S. *Paul*, whom he in this place for that very thing propounds as imitable. And in purſuance of this example and advice, S. *Cyril* expreſſes himſelf perfectly, μὴ τῇ ἡμετέρᾳ εὑρεσιολογίᾳ πρόσεχε attend not to my inventions; for you may poſſibly be deceiv'd: but truſt no words, ἐὰν μὴ μάθῃς ἐκ τῶν θείων γραφῶν, unleſs thou doeſt learne it from the Divine Scriptures. And more fully yet he ſpeaks in another place; ſpeaking of faith in the H. Trinity he adviſes them to *retain that Zeale in their mind, which by heads, or ſummaries is already lightly expounded to you, but if God grant, ſhall according to my ſtrength be demonſtrated to you by Scripture,* Δεῖ γὰρ περὶ τῶν θείων καὶ ἁγίων τῆς πίστεως μυστηρίων μηδὲ τὸ τυχὸν ἄνευ τῶν θείων παραδιδόναι γραφῶν. *For it behoves us not to deliver ſo much as the leaſt thing of the holy myſteries of faith without the Divine Scriptures, nor to be moved with probable diſcourſes. Neither give credit to me ſpeaking, unleſs what is ſpoken be demonſtrated by the holy Scriptures:* ἡ σωτηρία γὰρ ἄυλη τῆς πίστεως ἡμῶν ἐκ ἐξ εὑρεσιολογίας ἀλλ' ἐξ ἀποδείξεως τῶν θείων ἐστὶ γραφῶν, *for that is the ſecurity of our faith which is deriv'd not from witty inventions,*

Orat. contra Gentes.

in cap. 3. ep. Rom.

S. Cyril. Hieroſol. Catech. 12. illuminatorum.

Catech. 4. illuminat.

inventions, but from the demonstration of divine Scriptures. Omne quod loquimur debemus affirmare de scripturis Sanctis, said S *Hierome*, Every thing that we speak we must prove it from the holy Scriptures; not every thing absolutely but every thing of religion, every thing of faith and manners: and if all this be not in the Scriptures, it can have no just authority. *Hoc quia de scripturis authoritatem non habet cândem facilitate contemnitur quâ probatur*, If it have not its warrant from Scripture, it may with as much ease be despis'd as it was offered. Where though S. *Hierom* speakes of a particular question, *viz.* whether *Zecharias* the son of *Barachias* were the Father of *John* the *Baptist*; yet it could not have been applied to this particular if it had not been true in the general, That every thing of religion may be rejected that is not prov'd from Scripture. But this is expressly affirm'd by S. *Chrysostome*; *Nam si quid dicitur absque Scripturâ auditorum cogitatio claudicat*, &c. *If any thing be spoken without Scripture the thought of the hearers is lame; sometimes inclining to assent, sometimes declining; sometimes rejecting the opinion as frivolous, sometimes receiving it as probable: but when a testimony of the Divine voice proceedes from Scripture, it confirmes the speech of him that speakes, and the mind of him that heares.* And upon this account it was that S. *Cyril* of *Alexandria*, being to dispute with *Theodoret* concerning some mysterious questions of Religion, refus'd to conferre but from the fountains of Scripture. *It became him* (saies he) *being exercis'd in Scriptures, since his desire was to conferre with me about divine mysteryes, to speak with us onely out of the Holy Scriptures, and so to frame his discourse as becomes holy things.* And I should wonder if *Theodoret* should doe otherwise: for he himself brings in the orthodox Christian saying to *Eranistes*, μή μοι λογισμὺς καὶ συλλογισμὺς ἀνθρωπίνους προσενέγκῃς· ἐγὼ γὰρ μονῃ πείθομαι τῃ θείᾳ γραφῃ· *Tell not me of your logismes and syllogismes: I rely upon Scripture alone.* In which short sentence he makes provision against all devices of mans inventing; but he establishes a remedy and an affirmative that is equally strong against all pretension of traditions besides Scripture, by saying that Scripture alone is the ground of his confidence, the argument of his perswasion in matters of Religion. But S. *Austin* establishes the same sufficient and onely rule of Scripture, and by way of instance excludes the Authority of Councels. *Sed nunc nec ego Nicenum nec tu debes Ariminense tanquam præjudicaturus proferre Concilium. Neque ego hujus authoritate neque tu illius detineris: Scripturarum authoritatibus, non quorumcunque propriis, sed utrisque communibus testibus, res cum re, causa cum causa, ratio cum ratione concertet*, *I ought not to urge the Nicene Council, nor you that of Ariminum; as prejudging the question on either side. But let the causes be confronted, argument against argument, matter against matter, thing against thing by the authorities of Scripture, which are the witnesses common to us both.* By which words, if S. *Austins* affirmative can prevaile, it is certain that nothing ought to be pretended for argument but Scripture in matters of Religion. For if a General Council, which is the best witness of tradition, the best expounder of Scripture, the best determiner of a question, is not a competent measure of determination, then certainly nothing else can pretend to it, nothing but Scripture. And if it be replied, that this is onely affirm'd by him in case that two Councils are or seem contrary: I answer that if Councils can be or seem contrary, so that wise and good men cannot competently insist upon their testimony, it is certain a man may be deceived, or cannot justly be determin'd by any topick but the words and consequences of Scripture;

in Psal. 89

Idem in Matth. cap. 23.

Homil. in Psal. 95

ad Euoptium.

Dialog. 1. cap. 6.

Contrâ Maximinum lib. 3. cap. 14.

and if this be the onely probation, then it is ſufficient, that's certain. But that will be a diſtinct conſideration. In the mean time that which I intend to perſwade by theſe teſtimonies, is that the Fathers of the primitive Church did in all their myſterious inquiries of religion, in all matters of faith and manners, admit no argument but what was deriv'd from Scripture.

* De morib. Manich. cap. 11.

* *Nec ullum, &c. ideoque ſecretiſſimum, natum & remigans animi populorum. Nemo vobis credat, nemo nobis: ſed ſcripturæ proferantur. Homines quærendi ſunt Judices: ſi Chriſtiani, de utraque parte dari non poſſunt, quia judicis ſecreta Deoris quærenda eſt Judex: ſi paganus, non poteſt nôſſe Chriſtiana ſecreta; ſi Judæus, inimicus eſt Chriſto penitus. Ergo in terris nullum de ea re reperiri poterit judicium: de cælo quærendus eſt Judex. Sed ut perveniatur ad Cælum, cum habeamus hic in Evangelio teſtamentum? Optat. lib. 5. contr. Parmen.*

Ego ſolebam ſcripturarum qui jam Canonici appellantur, diſci hunc timorem honoremque deferre, ut nullum eorum ſcribendo errare aliquem credere: alios autem ita lego ut quantalibet ſanctitate doctrinaque polleant: non ideo verum putem quia ipſi ita ſenſerunt, ſed quia mihi vel per illos auctores Canonicos, vel probabili ratione, quod à veritate non abhorreat, perſuadere potuerunt. S. Auguſt. ep. 19. ad Hieronymum.

Et de aliarum ſcriptorum, etiam ſuæ quæ Canonicæ in Eccleſia nominantur, perſpicua aliquid firmatur auctoritate, ſine ullâ dubitatione credendum eſt. Aliis vero teſtibus vel teſtimoniis quibus aliquid credendum eſſe ſuaderur, tibi credere vel non credere licet, &c. Idem Epiſt. 112. Vide eundem lib. ad Donatiſtas poſt collationem cap. 15. & lib. de unitate Eccleſiæ cap. 18, & 19. lib. 2. de baptiſ. contra Donatiſtas, cap. 3.

6. 2. Next to this and like it is, that *the primitive Doctors did confute all hereſies from Scripture*; which could no way be done, but that becauſe *Rectum eſt index ſui & obliqui*, that which is ſtraight will demonſtrate its own ſtraightneſs and the crookedneſſe of that which is crooked. Scripture muſt be a rule of all religion and all faith, and therefore ſufficient to reprove all vice and every hereſy. So *Tertullian* diſcourſes, *Auſer hæreticis quæ cum Ethnicis ſapiunt, ut de Scripturis ſolis quæſtiones ſuas ſiſtant*, Take from hereticks their Ethnic learning, that they may diſpute their queſtions out of Scripture onely. To this purpoſe *Origen* brings in the precedent of our Bleſſed Lord, from Scriptures confuting the hereſy of the *Sadducees* about the Reſurrection. As Chriſt did, *ſic facient & Chriſti imitatores exemplis Scripturarum, quibus oportet ſecundum ſanam doctrinam omnem vocem obmuteſcere Pharaonis*. So will the followers of Chriſt doe by the examples of Scriptures, which will put to ſilence every voice of *Pharaoh*; that is, every doctrine of the adverſaries. Plainer yet are thoſe excellent words of S. *Athanaſius*, ſpeaking but of a ſmall part of Scripture, even ſo much as was ſufficient to prove the articles of the Nicene Creed: Ἡ γὰρ ἐν αὐτῇ παρὰ τῶν πατέρων καλὰ τῆς θείας γραφῆς ὁμολογηθεῖσα πίστις αὐταρκὴς ἐστὶ πρὸς ἀπαλοιφὴν μὲν πάσης ἀσεβείας, σύστασιν δὲ τῆς εὐσεβείας ἐν Χριστῷ πίστεως· he ſayes, *That faith which the Fathers confeſſed at Nice, according to the Holy Scriptures, was ſufficient to reprove all* [heretical] *impiety, and to eſtabliſh our Religion or faith in Chriſt.* And therefore S. *Chryſoſtome* compares the Scriptures to a doore: αὗται γὰρ ἡμᾶς προσάγουσι τῷ θεῷ, καὶ τὴν θεογνωσίαν ἀνοίγουσιν .... ἵνα ἀποκλείσῃ τοῖς αἱρετικοῖς τὴν εἴσοδον, *For they lead us to God, and open to us the knowledge of God, and keep hereticks from entring in.* The metaphor is dogmatical and plain enough without a commentary. The Scripture muſt be the port at which every article of faith muſt goe forth, and by which every hereſy can be kept from the fold of Chriſt. *Quæ ignoramus ex ea diſcimus.* So *Theodoret. Whatſoever we are ignorant of, we learn from thence. Nihil eſt quod nequeat Scripturis diſſolvi.* So *Theophylact.* There is no difficulty but may be untied by the Scriptures.

De Reſurrectionis cap. 3.

Tract. 23. in Matth.

Epiſt. ad Epict.

Homil. 38. in John.

* Ad illud [ad docendum] in 2. Timoth. 3. ibidem.

7. The Author of the imperfect work upon S. *Matthew*, uſually attributed to S. *Chryſoſtome*, diſcourſes pertinently and extreme fully to this article. *Then* [*when ye ſhall ſee the abomination of deſolation ſtanding in the*

the holy place] *that is, when ye ſhall ſee impious hereſy, which is the army of Antichriſt, ſtanding in the holy places of the Church, in that time* [*he which is in Judæa let him flee to the mountains,*] *that is, they who are in Chriſtianity, let them run to the Scriptures. And why does he command all Chriſtians in that time to run to the Scriptures? Becauſe ever ſince hereſy did infeſt thoſe Churches, there can be no proof of true Chriſtianity, nor any other refuge for Chriſtians who would know the truth of faith, but that of the Divine Scripture.* And a little after, *Now by no meanes can he that deſires, come to know which is the true Church of Chriſt, but onely by the Scriptures.... Our Lord therefore knowing that there would be ſo great a confuſion in the laſt dayes, commands that all Chriſtians who would be eſtabliſhed in the truth of faith ſhould flye to nothing but to the Scriptures.* Theſe words in ſome editions of the works of S. *Chryſoſtome* are ſcratch'd out by a Roman hand, to the regret of ſome of his own party, and the ſhame of them that ſuffered it or are pleaſed with it. All that I ſhall ſay to the book is this, that it is very often urg'd by the greateſt patrons of tradition to ſerve their ends in many other queſtions, and therefore cannot be rejected upon pretence of not being S. *Chryſoſtom's*; much leſſe upon pretence that it was written or interpolated by an *Arrian*; becauſe the *Arrians* call'd for Scripture in the uſe of the word ὁμοούσιος, but for the thing it ſelf they offer'd to be tried by tradition: and ſo did the *Catholicks*, as it hapned, or as the peeviſhneſs of their adverſaries, or the advantages of the queſtion did prompt them; but the *Catholicks* and the *Arrians* never did differ upon the queſtion of the ſufficiency of Scripture. But as for the book, it is *liber doctus & minimè ſpernendus*, ſaies *Bellarmine*; and ſo is this teſtimony: and the rather becauſe it is perfectly agreeing with the doctrine of the other Fathers.

De ſcript. Eccl. de S. Joh. Chryſoſt.

8. So S. *Auguſtine*, *Contra inſidioſos errores Deus voluit ponere firmamentum in Scripturis, contra quas nullus audet loqui qui quoquo modo ſe vult videri Chriſtianum*, Againſt treacherous errors God would place our ſtrength in the Scriptures; againſt which none that would any way ſeem a Chriſtian dares to ſpeak. And a little after he addes this example. *When Chriſt offered himſelf to Thomas to be handled*, non illi ſuffecit niſi de Scripturis confirmaret cor credentium, *Chriſt thought it not enough unleſs out of the Scriptures he had confirmed the heart of the believers:* proſpiciebat enim nos futuros, *He foreſaw that we ſhould come after: For if they therefore believed becauſe they held and handled him, what doe we? Chriſt is aſcended into heaven, not to return but at the end of the world that he may judge the quick and the dead: whence ſhall we believe but by that by which he confirm'd them who handled him? He opened unto them the Scriptures*] The Scriptures therefore are the great repoſitory and the great ſecurity of faith. They are alſo the great and the onely deletery of hereſies. So *Juſtus Orgilitanus* expounds that of the *Canticles* [take the little foxes] that is, *convincite hæreticos eorúmque verſutias ſanctarum Scripturarum concludite teſtimoniis*; convince hereticks, and reſtrain their ſubtleties and crafts with the teſtimonies of Holy Scriptures. And thus in fact the Fathers did conclude againſt the *Gnoſticks*, the *Valentinians*, the *Marcionites*, the *Manichees*, the *Photinians*, the *Arrians*, the *Novatians*, *Eutichians*, *Eunomians*, *Neſtorians*, *Macedonians*, and all the peſts of Chriſtendome. *Hos percuſſit gladius.* The word of God is *ſharper then a two-edged ſword*; and the magazines of Scripture were the armories of the Church.

Tract. 2. in Epiſt. Johan.

3. *The*

9. 3. *The Fathers did reject whatsoever was offered as an article of faith or a Rule of manners, that was not in, or could not be proved from Scriptures.* So Tertullian, *Sed quoniam unum aliquod attigimus vacuæ observationis, non pigebit cætera quoque denotare, quibus meritò vanitas exprobranda est, siquidem sine ullius aut Dominici aut Apostolici præcepti authoritate fiunt. Hujusmodi enim non religioni, sed superstitioni deputantur, affectata & coacta, & curiosi potius quam rationalis officii.* If you cannot shew the authority of a divine or Apostolical præcept, your office is not religion, but superstition, not a reasonable service, but curiosity, coaction or affectation. *Pamelius* suppos'd these words to be very dangerous against Ecclesiastical Traditions. They are indeed against all such traditions as either were meere matters of fact without command, or were postnate to the dayes of the Apostles, of which nature are almost all now in reputation and practice amongst the Romanists. But more ful yet and explicative of the former are those other words of *Tertullian* against *Hermogenes*: *Whether all things were made of præexisting matter*, I have no where read, *let the schoole of Hermogenes shew where it is written. Si non est scriptum, timeat Væ illud adjicientibus aut detrahentibus destinatum, If it be not written, let him fear the curse of them that adde or detract to or from what is written in the Scriptures.* But S. *Basil* is yet more decretory: φανερὰ ἔκπτωσις πίστεως, καὶ ὑπερηφανίας κατηγορία, ἢ ἀθετεῖν τι τῶν γεγραμμένων, ἢ ἐπεισάγειν τῶν μὴ γεγραμμένων, *It is a manifest defection from the faith, and a conviction of pride, either to reject any thing of what is written, or to introduce any thing that is not.* And therefore in pursuance of this great truth and measure of conscience, he gives this rule, πᾶν τὸ ἐκτὸς τῆς θεοπνεύστου γραφῆς ἐκ ἐκ πίστεως ὂν ἁμαρτία ἐστίν, *Whatsoever is without Scripture, not deriv'd from thence, is not of faith, and therefore is a sin:* and therefore every such thing S. *Austin* accurses; *Siquis sive de Christo, sive de ejus Ecclesia, sive de quacunque alia re quæ pertinet ad fidem vitámque nostram, non dicam si nos, sed, quod Paulus adjecit, si Angelus de cælo vobis annunciaverit præterquam quod in Scripturis legalibus & Evangelicis accepistis, anathema sit,* If any of us I will not say, but if any Angel (for that S. *Paul* added) shall say any thing of Christ or of his Church or of any other thing pertaining to faith and our life, except what we have received from the Scriptures of the Law and the Gospels, let him be Anathema. *Scripturis non loquentibus quis loquetur?* If the Scriptures speak not, who will speak? said S. *Prosper*. "All things which are delive-"red to us by the Law and the Prophets and the Apostles we receive, "acknowledge and confesse, neither doe we inquire after any thing else: "For it cannot be that beside those things which are divinely spoken by "the divine oracles of the Old and New Testament, we should say or at "all think any thing of God. So S. *Cyril*. These Fathers speak dogmatically, generally and peremptorily: nothing but what is in Scripture; nothing of God, nothing of Christ, nothing of his Church, nothing of any thing else. Adde to these, that by their doctrine of the sufficiency and sole use and necessity of Scripture in matters of Religion they doe exclude by name every thing that pretends against Scripture. So *Theophilus Alexandrinus*; *Dæmonici spiritûs est instinctus sophismata humanarum mentium sequi, & aliquid extra Scripturarum authoritatem sequi,* It is the instinct of the Devil to follow the inventions of mens minds, and to follow any thing without the authority of the Scriptures. No devise, no wit, no argument or invention of man is to be admittted into religion; nothing but Scriptures: but neither may traditions be received. *Quæ absque authoritate*

Cap. 22.

Homil. de fide.

In Asceticis, reg. 80.

Lib. 3. contra liter. Petiliani, cap. 6.

De vocat. gentium in 20. tomo operum Ambros. l. 2. c. 3.

lib. de Trinit. & persona Christi.

Paschali 2.

thoritate & testimoniis Scripturarum quasi traditione Apostolicâ sponte reperiunt & confingunt, percutit gladius. So S. *Hierome.* These things which they feign as if they were traditions Apostolical, the sword shall smite, if they be without authority and testimonies from Scripture. And so S. *Basil* to the Question, Whether new converts are to be accustomed to the Scriptures; he answers, *It is fit that every one should out of the Holy Scriptures learn what is for his use; yea it is necessary,* εἰς τε πληροφορίαν τῆς θεοσεβείας, καὶ ὑπὲρ τοῦ μὴ προσεθίζωσι ἀνθρωπίναις παραδόσεσιν, *both for the full certainty of godliness, and also that they may not be accustomed to humane traditions.* Where it is observable, he calls all *humane traditions* that are not in Scripture; for if there were any *divine traditions* which are not in Scripture, he ought to have advis'd the learning of them besides Scripture, for the avoiding of traditions which are not divine: but the Scripture being sufficient for all, whatsoever is besides it is humane, and to be rejected. I summe up this particular with an excellent discourse of the same Saint to the same purpose: He asks a question, *Whether it be lawful or profitable to any one to permit himself to doe or to speak what himself thinkes right, without the testimony of the Holy Scriptures.* He answers (after the quotation of many places of Scripture) *Who therefore is so mad, that of himself he dare so much as in thought to conceive any thing, seeing he wants the Holy and good Spirit for his guide, that he may be directed both in minde, in word and in action into the way of truth, or that he would remain blind without our Lord Jesus Christ who is the Sun of righteousness, &c? But because of those things which are disputed amongst us some are determin'd by the Commandement of God in holy Scripture, others are passed over in silence; as for those things which are written, there is absolutely no power at all given to any one, either to doe any of those things which are forbidden, or to omit any of those things which are commanded: since our Lord hath at once denounc'd and said, Thou shalt keep the word which I command thee this day, thou shalt not adde to it, nor take from it. For a fearful judgment is expected and a burning fire to devour them who dare any such thing. But as for those things which are pass'd over in silence, the Apostle* Paul *hath appointed us a rule, saying, All things are lawful to me, but all things are not expedient; all things are lawful, but all things doe not edify: Let no man seek to please himself, but every one anothers good. So that it is altogether necessary to be subject to God according to his Commandment.* The summe is this, Nothing is matter of duty either in word or deed, in faith or manners, but what is written in the Scriptures: whatsoever is not written there it is left to our liberty, and we are to use it as all indifferent things are to be us'd, that is, with liberty and with charity. Now if concerning such things as these there be any traditions, it matters not; they are no part of our religion, but to be receiv'd like lawes of man, or customes, of which account is to be given in the proper place.

In Aggæ. c. 1.

in Regu. brev. reg. 95.

in Reg. brev. reg. 1.

10. 4. The Fathers of the Church did affirme *the Holy Scriptures to be a sufficient and a perfect rule of faith and manners. Adoro Scripturæ plenitudinem,* said *Tertullian, quæ mihi & factorem manifestat & facta.* I adore the fulness of Scripture, which declares God and Gods works. His instance is in one article, but that without the rest can be no fulness; as *Virgils* Georgics cannot be full, because he tells a few things well of Bees and tillage. But I will not chuse any authorities concerning which I need to argue; there are enough that are extremely plain, affirmative and concluding.

Adverſ. Hermogen. Cap. 22.

ding. I inſtance in *Irenæus*. *Credere hæc talia debemus Deo qui & nos fecit,*
Lib. 2. cap. 47. *rectiſſimè ſcientes quia Scripturæ quidem perfectæ ſunt, quippe à verbo Dei & Spiritu ejus dictæ*, We know aſſuredly that the Scriptures are perfect, for they are the word of God, and ſpoken by the ſpirit of God. But
Lib 4 cap. 66. therefore he adviſes, *Legite diligentius id quod ab Apoſtolis eſt Evangelium nobis datum, & legite diligentius Prophetas, & invenietis univerſam actionẽ, & omnem doctrinam, & omnem paſſionem Domini noſtri prædicatam in ipſis*, Read the Goſpel which the Apoſtles left us more diligently, read the Prophets more diligently, and you ſhall finde declar'd in them all the doctrine of Chriſt, all his action & all his paſſion. By [*univerſam actionem*] he means his life indefinitely, and in general: and certainly the New Teſtament needs nothing to its being a perfect Rule, when it contains all Chriſts doctrine, and all his ſtory, viz. ſo far as concerns us. Εὐαγγελικαὶ γὰρ βίβλοι
Apud Theodoret. hiſt. Eccleſ. l. 1. c. 6. & apud Gelaſium Cyzicenum in actis Concil. Nicen. l. 2. c. 7. καὶ ἀποστολικαὶ καὶ τῶν παλαιῶν προφητῶν τὰ θεσπίσματα σαφῶς ἡμᾶς ἅπερ χρὴ περὶ τοῦ θείου φρονεῖν ἐκπαιδεύουσι, ſaid *Conſtantine* the Emperor. *The Evangelical books, and thoſe of the Apoſtles, and the oracles of the old Prophets, doe evidently teach us to believe thoſe things which we ought to believe concerning that which is divine.* And therefore S. *Athanaſius*, or whoever is the Author of the Exhortation to the *Monkes*, *Cura in canonicis ponenda eſt ſalubriter monumentis, non quod Apocrypha præſertim ignorata debeamus dãnare, ſed quod ad ſcientiam Dei digeſtam Canonis ſeriem putemus poſſe ſufficere* : Be careful in reading the Canonical Scriptures; not that the apocryphal (eſpecially before they are known) ought to be rejected, but that we ſuppoſe the Canon is ſufficient [*to the knowledge of God.*] The ſame with *Conſtantines* περὶ θεοῦ, *that which is concerning God*; that is, the religion. But
Orat. contra Gentes in initio more full is that ſhort ſentence of S. *Athanaſius*, Αὐτάρκεις μὲν γάρ εἰσιν αἱγὶ καὶ θεόπνευστοι γραφαὶ πρὸς τὸ τῆς ἀληθείας ἐπαγγελίαν, *The holy and divinely-inſpir'd Scriptures are in themſelves ſufficient for the preaching or*
Homil. 9 in 2. Tim. *enunciation of the truth.* To the ſame purpoſe are the words of S. *Chryſoſtome*; *If there be need to learn any thing, or to be ignorant of any thing, thence we learn; if we would reprove falſhood, thence we draw; if any thing be wanting to correction, to caſtigation, to comfort, and that we ought to get it, from thence we learn it.* μηδὲ περιμείνῃς ἕτερον διδάσκαλον, ἔχεις τὰ λόγια τοῦ
Homil. 9. in ep. Coloſſ. θεοῦ. οὐδείς σε διδάσκει ὡς ἐκεῖνα, *Look for no other teacher, thou haſt the oracles of God: none teaches thee like them.* He that uſes not the Scriptures, but comes into the fold of Chriſt ſome other way, that is, appoints a way to himſelf which the law [of God] hath not eſtabliſhed, he is a thief. *For*
Homil. 58 in Johan. *the Scriptures are like a moſt ſtrong gate, and keep out hereticks from entring, and make us alltogether ſure of all things whatſoever we will:* [*of all things*] that is, of all things of religion; for that is the ſubject of the diſcourſe, and
Homil. 41. opi. inpeit. in Matth. explicitely delivered by him in another place. *Quicquid quæritur ad ſalutem totum jam adimpletum eſt in Scripturis*, In the Scriptures fully there is whatſoever is look'd for unto Salvation. And this is ſo expreſs'd in an
l. 2. c. 9. de doctri. Chriſtiana. excellent place of S. *Auſtin*, *In iis quæ apertè in Scripturis poſita ſunt inveniuntur illa omnia quæ continent fidem moreſque vivendi, ſpem ſcil. atque charitatem.* More fully yet was that of *Abbat Odilo* of the *Cluniac* order,
Collat. l. 1. c. 1. *Omnis ratio quâ vel Deum vel nos cognoſcimus, divinis libris continetur*, In thoſe things which are openly or plainly placed in the Scriptures all things are to be found which contain faith, and the manners of life, viz. hope and charity: every me aſure or manner by which we know God or our ſelves is contain'd in the divine books. What can be more plain or more affirmative? But S. *Auſtin* ſayes the ſame thing over and over; *Legite*

ſacram

sacram scripturam in qua quid tenendū & quid fugiendum sit plenè invenietis, Read the holy Scriptures; in which ye shall [perfectly, or] fully find what is to be held, what is to be avoided. And again, *Sancta Scriptura nostræ doctrinæ regulam figit,* The Holy Scripture fixes or limits the rule of our doctrine. *In hoc volumine cuncta quæ ædificant, omnia quæ erudiunt, scripta continentur,* saith S. *Gregory* Bp. of *Rome,* In this volume whatsoever can instruct us, whatsoever can edify us is contained. Παῖλα τὰ παραδεδομένα ἡμῖν διὰ τε νόμου καὶ προφητῶν καὶ ἀποστόλων καὶ εὐαγγελιστῶν δεχόμεθα καὶ γινώσκομεν καὶ σέβομεν, οὐδὲν περαιτέρω τούτων ἐπιζητοῦντες, said S. *Damascen; All things delivered to us by the Law and the Prophets, the Apostles and Evangelists, we receive and know and reverence, looking for nothing beyond these.* "And to "bring in any thing that is a stranger to Scripture *Theodoret* calls it an ex- "tinguishing of the Spirit; something contrary to that duty whereby we "are oblig'd to stirre up the grace of God we have received. "For the "Church of Christ dwells in and possesses assemblies in all the world being "joyn'd by the unity of the Spirit, and hath cities of the Law and the Pro- "phets, of the Gospel and Apostles, she departs not out of her own bounds, "that is, from the Holy Scriptures, but retains her first possession. So S. *Hierome.* And in his commentary on *Psal.* 86. (if he be the Author of it, as *Rupertus* affirmes,) expounding those words, *Dominus narrabit in Scriptura populorum & principum horum qui fuerunt in ea,* he sayes, [*Et principum*] *hoc est Apostolorum & Evangelistarum:* [*horum qui fuerunt in ea*] *videte quid dicat, Qui fuerunt, non qui sunt, ut exceptis Apostolis, quodcunque aliud postea dicitur, abscindatur, non habeat postea autoritatem. Quam vis ergo Sanctus sit aliquis post Apostolos, quamvis disertus sit, non habet autoritatem, quoniam Dominus narrat in Scriptura populorum & principum qui fuerunt in ea.* "The "Princes of the people] that is, the Apostles and Evangelists: [of them "which have been in her] which have been, not which are in her; that "excepting what the Apostles say, every thing after them may be cut off, it "hath after them no authority. For if there be any wise man, any Saint "after the Apostles, he hath no authority; because our Lord saith in the Scripture or writing of the princes that have been in her. *Sufficit Divina Scriptura ad faciendū eos qui in illa educati sunt sapientes, & probatissimos, & sufficientissimam habentes intelligentiam; indigemusque ad hoc prorsus nihil externis Magistris.* So S. *Cyril* of *Alexandria.* "The divine Scripture is suf- "ficient to make them who are educated in it wise and most approv'd and "having a most sufficient understanding, and be sides this we need no exter- nal Masters. To the same purpose is that of *Anastasius* of *Antioch, Quòd quæ silentio præteriit Scriptura divina non sint scrutanda, perspicuum: Omnia enim quæ faciunt ad nostrā utilitatem dispensavit & administravit Spiritus sanctus:* "It is manifest that those things are not to be inquir'd into which the "Scripture hath pass'd over with silence. For the holy Spirit hath dispen- "sed to us and administred all things which conduce unto our profit. *Quic- quid est de verbo Dei, quicquid sciri vel prædicari oportet, de Incarnatione, de vera Divinitate & Humanitate filii Dei, duobus ita continetur Testamentis, ut extra hæc nihil sit quod annunciari debeat aut credi. Totum in his comprehenditur cæleste oraculum, quod tam firmiter scire debemus, ut extra hæc audire neque hominem nobis liceat, neque Angelum.* "Whatsoever is "of the word of God, whatsoever ought to be known or preached of the "Incarnation, of the true Divinity and Humanity of the Son of God, is "so contain'd in both the Testaments, that besides these there is nothing "that may be believ'd or preach'd. All the whole celestial oracle is

Serm. 38. ad fra- tres in Eremo.

S. bono vidui c. 1.

Homil. 9. in Ezek.

lib. 1. de ortho fide c. 1.

in Levit. q. 9

in Michæ. c. 1

lib. 7. contra Julian.

lib. 8. anagogi- cæ contempl. in Hexacme- ron.

Rupert. Abbas Tuitiensis Comment. in lib. Regum l. 3 c. 12.

"comprehended in theſe, which we muſt ſo firmely believe, that beſides "theſe it is not lawful for us to hear either Man or Angel: and indeed it were not to be imagin'd how the Scripture ſhould be a Canon or Rule to Chriſtians, if it were ſo imperfect that it did not contain the meaſures of faith and manners. Κανών ἐστι μέτρον ἀδιάψευστον πᾶσαν πρόθεσιν καὶ ἀφαίρεσιν ἐδαμῶς ἐπιδεχόμενον, ſaid *Varinus*, *A Rule or Canon is an unerring meaſure, which at no hand can receive addition or ſuffer diminution.* And S. *Baſil* reproved the heretick Eunomius for folly beſides his falſe doctrine, becauſe that he affirm'd tradition of the Fathers to be the Gnomon or Canon of faith, and yet ſaid προσθήκης ἀκριβεστέρας δεῖσθαι, *that it wanted ſome additament* to make it exact; one part contradicts the other. Ὁ κανὼν ὅτε προσθεσιν ἔτε ἀφαίρεσιν δέχεται, ἐπεὶ τὸ κανὼν εἶναι ἀπόλυσι, ſaith S. *Chryſoſtome*, *If any thing be put to it, or taken from it; it ceaſes to be a Canon.* And therefore Scriptures are not the Chriſtian Canon, they are not Canonical, if they need to be ſupplied by traditions. The ſame is alſo affirmed by *Oecumenius*, and the very words of *Chryſoſtome* are tranſcrib'd by *Theophylact*.

Lib. 1. contr. Eunomium.

Homil. 12. in 3. Philip.

11. 5. *Whatſoever Chriſt taught to his Apoſtles by his Sermons and by his Spirit, all that the Apoſtles taught to the Church, and ſet it down in writing.*

This we learn from S. *Irenæus*, *Non per alios diſpoſitionem ſalutis noſtræ cognovimus quàm per eos per quos Evangelium pervenit ad nos, quod quidem hinc præconiaverunt, poſtea verò per Dei voluntatem in Scripturis nobis tradiderunt, fundamentum & columnam fidei noſtræ futurum. We have known the Oeconomy of our ſalvation by no other but by thoſe by whom the Goſpel came to us; which truly they then preach'd, but afterwards by the will of God deliver'd to us in the Scriptures, which was to be the pillar and ground to our faith:*] viz. what the Church was afterwards to miniſter, the Scriptures did conſigne, and both of them were pillars and grounds of faith, the Church λειτουργικῶς, the Scriptures αὐθεντικῶς, the Church by way of Miniſtery, the Scriptures by their Authority. To this purpoſe are thoſe words of S. *Auſtin*, *Cum multa feciſſet Dominus Jeſus, non omnia ſcripta ſunt, ſicut idem ipſe ſanctus Evangeliſta teſtatur, multa Dominum & dixiſſe & feciſſe quæ ſcripta non ſunt: electa ſunt autem quæ ſcriberentur quæ ſaluti credentium ſufficere videbantur. Our Lord Jeſus did doe many things which are not written; and the Holy Evangeliſt does witneſs that he both did and ſpake many things which are not written: but thoſe things which were ſeen to ſuffice to the ſalvation of believers were choſen to be written.* And therefore S. *Auſtin* and *Optatus* compare the Scriptures to the Will of the Teſtator: concerning his goods the kinred may ſtrive, one affirming this, and another that; but *proferte tabulas*, ſhew the Will, peruſe the writings; then the Judge liſtens, the Advocates are ſilent, the people are in ſuſpence, the litigants wait: let The teſtators words be read, that muſt end all contention. Now this Will was therefore conſign'd in writing, that when our Teſtator was gone from us we might not doubt concerning his Legacies and his Commandments. The ſame is by *Nicephorus* particularly affirm'd of S. *Paul*, *Quæ præſens oratione ſuâ dilucidè docuerat, eadem per compendium abſens in memoriam revocans per epiſtolas dedit. The things which he plainly and explicitely preach'd, he being abſent, to recal into their memory what he had delivered, ſet them down in his Epiſtles as in a ſummary.* And S. *Peter* having (as appeares in his Epiſtle) promiſed to doe ſomething to put

Lib. 3. cap. 1.

Tract. 49. in Johan.

Expoſit. 2. Pſal. 21. contr. Parmen. l. 5.

Lib. 2. Hiſt. cap. 34.

put them in mind after his deceaſe (meaning to remind them of the doctrine delivered) cauſed S. *Mark* to write his Goſpel.

12. Thus I have ſufficiently demonſtrated the Rule ſo far as this topick can extend; that is by matter of fact, and the doctrine of the Church. For if Tradition be regardable, then that the Scriptures are a ſufficient and a perfect Rule of Faith and Manners is competently prov'd by that which our adverſaries in this queſtion pretend to regard: but if Tradition be not conſiderable, then the Scriptures alone are; and there is indeed no Tradition ſo clear, ſo regular, ſo unreprovable as thoſe which are concerning Scripture. That theſe books are Scripture, that is, the written word of God, and that the written word of God is all that we have of Gods will, is univerſally delivered by the Chriſtian, and of that which of late is queſtion'd I have given a ſpecimen: for if the concurrent teſtimony of ſo many Fathers cannot perſwade this article, then the topick of Tradition will be wholly uſeleſs in all queſtions; but if they can, as indeed they ought in this queſtion, then we are fix'd upon this great rule of Conſcience; the Holy Scriptures are the great Rule of Conſcience both in doctrines of Faith, and in doctrines of Manners.

13. 2. The next inquiry is what uſe there is of Traditions, and if they cannot be a part of the Rule, what aides doe they bring to the Conſcience in faith or manners.

14. 1. To this I anſwer, that Tradition is of great uſe for the conveying of this great Rule of Conſcience, the Holy Scriptures of the Old and New Teſtament. For when I affirm that the Holy Scriptures are a perfect rule of faith and manners, that is, that they contain all the word of God; it is to be underſtood, that it is a rule, a perfect rule to them who believe them to be the word of God. For the queſtion is not whether Scriptures be a Rule, but whether they be a *perfect* Rule: not whether they be the word of God, but whether they be all the word of God that is of neceſſity to be preach'd to the Church. So that the Traditions concerning Scripture it ſelf, being extrinſecal to Scripture, are alſo extrinſecal to the queſtion: and ſuppoſing that Tradition were the onely inſtrument of conveying Scripture to us; yet that Tradition muſt not, cannot poſſibly be any part of the queſtion, for Scripture muſt be ſuppos'd as deliver'd to us and accepted for the word of God, before we can inquire whether this Scripture ſo delivered be all the word of God or no. And indeed Tradition of Scripture is the hand that reaches forth this repoſitory of the Divine word, but it ſelf is not directly any part of it; it miniſters to the will of God, but is no part of the matter of it: and therefore the common pretence for the neceſſity of Tradition beſides Scripture (becauſe by univerſal Tradition we underſtand theſe to be the books of Scripture) will come to nothing, becauſe the queſtion of the plenitude of Scripture is after the admiſſion of that tradition which reports Scripture to us to be the word of God: but it matters not how or why we believe it, whether by univerſal or particular Tradition, whether becauſe my Prieſt tells me ſo or my Father, whether I am brought into it by reaſon or by education, by demonſtrative or by probable inducements: if it be believed heartily it is ſufficient; and then it is that we affirme the Scriptures ſo believ'd to be the word of God, to be a perfect Rule of all that we are to think or ſpeak or doe in order to Salvation.

15. 2. Beſides this, to inquire of what uſe traditions are is to no purpoſe for us, for there is no tradition of any doctrine of Faith or Rule of life but what is in Scripture; but if there were, Traditions would be of the ſame uſe as Scripture is, if the tradition were from Chriſt and his Apoſtles, and were as *certain*, as *univerſal*, as *credible* as that is by which we are told that Scripture is the word of God. For the word which is now written was firſt delivered, that which is now Scripture was at firſt tradition; and becauſe it was afterwards call'd ſo, it hath been made uſe of by theſe perſons, who, knowing that the change of words in deſcending Ages is leaſt diſcerned by mankind, and that from words which are fewer then things moſt advantages can be made by them who love every thing better then truth, have pretended every ſaying of the Scripture and Fathers, in which Tradition is us'd, to be a competent argument of the imperfection of Scripture, and of the neceſſity of a ſupply to be made by tradition.

16. Παράδοσις, *Tradition*, is any way of communicating the notice of a thing to us: Παρέδωκα ὑμῖν ὅτι Χριστὸς ἀπέθανεν ὑπὲρ τῶν ἁμαρτιῶν ἡμῶν, *I have delivered to you that Chriſt died for our ſins.* But this tradition is alſo in Scripture: ſo S. *Paul* addes that Chriſt died for our ſins, κατὰ τὰς γραφὰς *according to the Scriptures*; and he commands the *Theſſalonians* to preſerve the traditions which they had learned from his mouth or from his hand, from his preaching or his writings: and this uſe of the word continued in the Church for divers Ages, even till all traditions that were not in Scripture were loſt, or made uncertain. *Si ergo aut Evangelio præcipitur, aut in Apoſtolorum epiſtolis aut actibus continetur .... obſervetur divina hæc & ſancta traditio.* So S. *Cyprian. If this be commanded in the Goſpel, or be contained in the Epiſtles or Acts of the Apoſtles, let this Divine and holy tradition be obſerved.* Such was that which S. *Baſil* calls παράδοσιν τοῦ βαπτίσματος *the tradition of baptiſme*, ἀπὸ τοῦ Κυρίου ἐν τῇ παραδόσει τοῦ σωτηρίου βαπτίσματος. ὧν δεδώκοτος. τὴν τάξιν, *Our Lord himſelf having delivered or given the order in the tradition of baptiſme.* And S. *Irenæus* calls it a tradition Apoſtolical, *Chriſtum accepiſſe calicem, & dixiſſe ſanguinem ſuum eſſe, &c. That Chriſt tooke the cup, and ſaid it was his blood; and that the Barbarians did diligently keep the tradition, Credentes in unum Deum & in Chriſtum qui natus eſt ex Virgine, believing in one God and in Chriſt who was born of a Virgin.* Such traditions as theſe the whole Church had before the conſignation of Scripture-Canon, and ſhe retain'd them better by help of the Scriptures. Tradition is a giving or delivering of it; and ſo long as it is a tradition of God, it is well enough: but if it comes to be *your traditions*, there is in them nothing of Divinity, nothing of that authority which is to preſcribe in faith and holineſs. So that in ſhort the thing is this;

1 Cor. 15.

Epiſt. 74. ad Pompei.

Lib. 3. contra Eunom.

Lib. 3. cap. 4.

If God by his Son or by his Apoſtles, or any way elſe, hath taught his Church, there is no diſputing of it, let it be made appear that it is a tradition of God, whether written or unwritten, it matters not. If it cannot be made to appear, then *idem eſt non eſſe & non apparere*, it is not obliging to us: we cannot follow the light of a candle that is hid in a dark lanthorn, or thruſt into a buſhel. But that there is nothing of Faith and manners which the Church of God ever did hold neceſſary, or ought to have held neceſſary, but what is in the Scriptures, I have already largely prov'd, and ſhall in the conſequents illuſtrate with other collateral lights.

In

17. In the mean time it ought to be known that in the first ages of the Church the Fathers disputing with Hereticks did oftentimes urge against them the constant and universal tradition of the Church · and it was for these reasons. 1. Because the Hereticks denied the Scriptures : so did the *Manichees* reject the four Gospels; *Ebion* received onely S. *Matthews* Gospel, *Cerinthus* onely *S. Mark*, *Marcion* onely *S. Luke*, and not all of that, *Valentinus* none but *S. John*, but the *Alogi* received all but that ; *Cerdo*, *Cherinthus*, *Tatianus* and *Manichæus* rejected the acts of the Apostles ; the *Ebionites* all *S. Pauls* Epistles; the Church of *Rome* for a long time rejected the Epistle to the *Hebrews*, so did *Marcion*; others also refus'd to admit the Epistles of *S. James* and *S. Jude*, the second of *S. Peter*, the second and third of *S. John*, as we learn from [a] *Eusebius* and *S.* [b] *Hierom.* Now to such men as these, and in all the interval till the whole Canon was consign'd and accepted, it was of great use to alledge Tradition, especially because the doctrine of the Scriptures was intirely and holily preach'd in all the Apostolical Churches, and by the known and universally preached doctrines they could very well refute the blasphemies of wicked and heretical persons. But in all this here is no objection, for all this tradition was nothing else but the doctrine of the holy Scriptures.

a Lib. 3. hist. cap. 25.
b Lib. de viris illustr.

18. 2. The hereticks did rely upon this topick for advantage, and would be tried by Tradition ; as hoping because there were in several Churches contrary customes, there might be differing doctrines, or they might plausibly be pretended ; and therefore the Fathers had reason to urge tradition, and to wrest it from their hands, who would fain have us'd it ill. Thus did the *Carpocratians* in *Irenæus*, *When they are reprov'd from Scripture, they accuse the Scriptures, as if they were not right, as if they had no authority, as if from them truth could not be found by them that know not tradition :* For they affirme that *Jesus spake some things in mystery to his Disciples apart, and that they requir'd that they might deliver them to the worthy, and to them that would assent to them.* Upon this pretence *Artemon* expos'd his errors, saith *Eusebius*, and *Papias* introduc'd the *Millenary* heresy ; and by tradition the *Arians* would be tried, and *S. Basil* was by them challeng'd in an appeal πρὸς τὴν συνήθειαν *to custome* or *tradition* and by this *Eunomius* did suppose he had prevail'd ; and *S. Austin* affirmes that all the most fooliſh hereticks pretend for their most senseless figments those words of our Blessed Saviour [*I have yet many things to say unto you, but ye cannot beare them now.*] And to this purpose was that which the *Basilidians* did affirme, that the mysteries of their sect were no things of publike notice, but conveyed in secret. Now to such as these there were but two wayes of confutation : one was, which they most insisted upon, that the Holy Scriptures were a perfect rule of faith and manners, and that there was no need of any other tradition ; the other, that the traditions which they pretended were false, and that the contrary was the doctrine which all the Churches of God did preach alwaies. Now thus far Tradition was useful to be pleaded ; that is, though the hereticks would not admit the doctrine of Christianity as it was consign'd in Scripture, yet they might be convinc'd that this was the doctrine of Christianity because it was also preach'd by all Bishops and confess'd by all Churches. But in all these contests the Fathers did not pretend to prove by Tradition what they could not prove by Scripture ; but the same things were preach'd which were written, and no other articles of Faith, no other rules and measures of good life : onely

Lib. 2. cap. 2.
Lib. 2. cap. 24.
Hist. lib. 5. c. 27.
S. Basil. l. 2. contr. Eunom.
Tract. 97. in Johan.

becauſe they did not conſent in the authority of one inſtrument, they ought to be convinc'd by the other.

19. 3. There is yet one uſe more of Traditions, but it is in Rituals, and in ſuch inſtances concerning which *S. Paul* wrote to the *Corinthians* theſe words [*The reſt will I ſet in order when I come.*] Such are, 1. *The obſervation of the Lords day*, ſolemnly once a year, and leſſe ſolemnly once a week, that is, the feaſt of Eaſter, and the weekly Sunday; 2. *The Government of the Church by Biſhops*, which is conſign'd to us by a tradition greater then ſome books of Scripture, and as great as that of the Lords day: and that ſo notorious, that thunder is not more heard then this is ſeen in all the monuments of Antiquity; 3. *Offices Eccleſiaſtical to be ſaid and done by Eccleſiaſtical perſons*: ſuch as are the publick Prayers of the Church, the conſecration of the bleſſed Euchariſt, the bleſſing of the Married paires and joyning them in the holy and myſterious rite of Marriage, the conſecration of Biſhops by Biſhops onely, and of Prieſts by Biſhops and Presbyters, though for this laſt there is not ſo univerſal tradition, *that* every where requiring the impoſition of the Biſhops hand, and but in ſome places requiring the aſſiſtance of the Presbyters. Theſe three are the moſt Univerſal and Apoſtolical traditions, which although they alſo have great grounds in Scripture, yet becauſe the univerſal practice and doctrine of the Church of God in all Ages and in all Churches primitive is infinitely evident and notorious, leſs liable to exception, and an apt Commentary upon the certain but leſs evident places of Scripture, therefore theſe may be plac'd under the protection of univerſal Tradition; for they really have it beyond all exception. And although in theſe the Scripture is ſufficient to all wiſe and good men, to all that are willing to learn and obey, and not deſirous to make Sects and noiſes; yet becauſe all men arenot wiſe and good & diſ-intereſs'd, Tradition in theſe things is to Scripture as a Burning-glaſs to the Sun, it receives its raies in a point, and unites their ſtrength, and makes them burn as well as ſhine, that is, it makes them doe that which in their own nature they are apt to doe, and from doing which they are onely hindered accidentally.

20. By theſe inſtances it is evident that we ought not to refuſe Tradition when it is univerſal, nor yet believe that in any thing of great concernment, though it be but matter of rite and government, the Scripture is defective; for in theſe things we admit Tradition to be the Commentary, but Scripture to be the Text: πάντα σύμφωνα τῇ γραφαῖς, as *Irenæus* in *Euſebius* expreſſes it, *all* muſt be *agreeable to Scripture*. And although a tradition ſo abſolutely univerſal as theſe, were a warranty greater then any objection can be againſt them, and were to be admitted though they had not expreſs authority in Scripture, as all theſe have; yet that even theſe things alſo are in Scripture, is a very great argument of the perfection of it.

lib. 5. c. 20.

21. For all other things the Scripture is abundant, and whatever elſe is to be us'd in the Externals and appendages of Religion the authority of the Church is a ſufficient warranty, as I ſhall prove in it's proper place. But if in theſe Externals there be a tradition, according to the degree of it's antiquity and univerſality, ſo it puts on degrees of reaſonableneſs, and may be us'd by any Age of the Church: and if there be nothing ſupervening that alters the caſe, it is better then any thing that is new; if it be equally fit, it is not equally good, but much better. This

22. This is all the use which is by wise and good men made of Traditions, and all the use which can justly be made by any man; and besides the premisses this will be yet further apparent, That although there are some universal practices which ever were and still are in all Churches, which are excellent significations of the meaning of these Scriptures, where the practices are less clearly injoyn'd, yet there are no traditive Doctrines distinct from what are consign'd in Scripture. And this I shall represent in the third particular which I promised to give account of, viz.

23. That the topick of Tradition, after the consignation of the Canon of Scripture, was not onely of little use in any question of Faith or Manners, but falsely pretended for many things, and is unsafe in all questions of present concernment.

24. In order to the proof of this, I divide the great heap of Traditions, which are shovel'd together by the Church of *Rome*, into three little heaps: 1. of things necessary or matters of Faith, 2. of things impertinent to the Faith and unnecessary, 3. of things false.

25. The Traditions of things necessary, are the Trinity of Persons, the consubstantiality of the Eternal Son of God with his Father, the Baptisme of infants, the procession of the Holy Ghost from the Son, and Original sin, that the Father was not begotten, that the Holy Ghost is God, and to be invocated, that Baptisme is not to be reiterated, that in Christ there are two natures and one person. Now that these be appertaining to the Faith, I easily grant; but that the truth of these articles and so much of them as is certain or necessary is also in Scripture, I appeal to all the books of the Fathers, and of all moderns who doe assert them by testimonies from Scripture. *Quicquid sciri vel prædicari oportet de Incarnatione, de vera Divinitate atque humanitate filii Dei, duobus ita continetur Testamentis, ut extra hæc nihil sit quod annunciari debet aut credi*, said *Rupertus Abbas*, as I before quoted him. All the mysteries of Christs nature and person, of his humanity and Divinity are clearly set down in both Testaments. But they are not clearly reported in Tradition: the Fathers having sometimes spoken in these articles more in the Arian then in the Catholick style, say *Hosius*, *Gordon*, *Huntly*, *Gretser*, *Tanner*, *Perron* and *Fisher*. By Scriptures therefore the Church confuted the Arians, the *Eutychians*, the *Nestorians*, the *Monothelites*, the *Photinians* and the *Sabellians*. The other articles are also * evidently in the words of Scripture or in the first consequences and deductions. And when we observe the men of the Church of *Rome* going about with great pretensions to confirme all their articles by Scriptures, they plainly invalidate all pretence of necessity of Traditions. If they say that all the articles of *Trent* are not to be found in Scripture, let them confess it plainly, and then goe look out for proselytes. If they say there are Scriptures for all their articles, then Scripture is sufficient, or else their faith is not. For all these I before reckoned, it is certain both they and we have from Scripture many proofs, and if there were not, I believe Tradition would faile us very much; for the heresies which oppugned them were very early, and they also had customes and pretences of customes to prescribe for their false doctrines; as I shall make appear in the following periods.

De author. S. Script. l. 3. p. 53
Tom. 1. contr. 1. de verbo Dei cap. 19.
In colloq. Ratisbon. lib. 3. c. 3. contre le Roy Jaques, & l. 2. c. 7. de Euchar. cont. DuPlessis & cap. 5. obser. 4.
Resp. ad quæst. 9. Jacobi Regis
Epiphæn. hære. 69.
* S. Ambros. c. 5. lib. de fide cõtra Arianos.
S. Aug. tract. 97. in Johan. & epist. 174, & 178.
S. Athanas. in libel. de decret. Synod. Nicen.
Tertul. adv. Praxeam. Theodoret. Dial. 2. c. 4. Salmero, disp. 4. in 2. ad Timoth.

26. There are alſo traditions pretended of things which are not neceſſary, ſuch as are the Faſt of Lent, Godfathers and Godmothers in baptiſme, the mixture of wine and water in the Euchariſtical chalice, the keeping of Eaſter upon the firſt day of the week, trine immerſion in baptiſme, the Apoſtles Creed, prayer for the dead, the wedneſday and the friday Faſt, Unction of ſick people, Canon of the Scripture, the formes of Sacraments, and the perpetual Virginity of the Virgin *Mary*. Now that theſe are not Divine traditions nor Apoſtolical appears by the deſtitution of their proper proof. They are Eccleſiaſtical traditions and of ſeveral ages, and ſome of them of very great antiquity; but of what obligation they are I ſhall account in the Chapter of [*Lawes Eccleſiaſtical.*] In the mean time they neither are of the neceſſity of faith, or the eſſential duty of Chriſtian religion: and therefore as a Chriſtian can goe to heaven without the obſervation of them in certain circumſtances, ſo is the Scripture a perfect Canon without giving rules concerning them at all.

27. But then as for others, there are indeed a great many pretended to be traditions, but they are falſe articles, or wicked practices, or uncertain ſentences at the beſt. I reckon ſome of thoſe which the Roman Church obtrudes: ſuch as are invocation of Saints and Angels, adoration of them, and worſhipping of Images, the doctrine of Purgatory, prayer in an Unknown tongue, the Popes power to depoſe Kings, and to abſolve from lawful and rate oaths, the picturing of God the Father and the holy Trinity, the half Communion, the doctrine and practice of Indulgences, Canon of the Maſſe, the doctrine of proper ſacrifice in the Maſs, Monaſtical profeſſion, the ſingle life of Prieſts and Biſhops. Now theſe are ſo far from being Apoſtolical traditions, that they are ſome of them apparently falſe, ſome of them expreſsly againſt Scripture, and others confeſſedly new, and either but of yeſterday, or, like the iſſues of the people, born where and when no man can tell. Concerning Indulgences, *Antoninus* the famous Arch-Biſhop of *Florence*, ſayes that we have nothing expreſsly recited in holy Scripture, nor are they found at all in the writings of the ancient Doctors. The half-communion is by the Council of Conſtance affirmed to be different from the inſtitution of Chriſt and the practice of the primitive Church. Concerning invocation of Saints, *Cum ſcriberentur Scripturæ nondum cæperat uſus vovendi Sanctis.** *Bellarmine* confeſſes that in the age in which the Scriptures were written, the uſe of making vowes to Saints was not begun; and [a] Cardinal *Perron* excludes the next ages from having any hand in the invocation of them. *Et quant aux autheurs plus proche du ſiecle apoſtolique, encore qu'il ne ſe trouve pas de veſtiges de ceſte couſtume &c. In the authours more near the Apoſtolical age no footſteps of this cuſtome can be found.*

Concerning making an image of the Father or of the Holy Trinity *Baronius* cites an Epiſtle of *Gregory* the ſecond, *An. Dom.* 726. in which he gives a reaſon why the Church did not make any picture of the Father; which forces him to confeſs that the beginning of the cuſtome of painting the Father and the Holy Ghoſt *poſtea uſu venit in Eccleſia*, came into uſe afterward in the Church.

The doctrine of Purgatory is not onely expreſsly againſt Scripture, ſaying, *Bleſſed are the dead which die in the Lord, even ſo ſaith the Spirit, that they reſt from their labours*; but it is alſo certain that it was not ſo ancient as the Canon of the Roman Maſs, the age of which no man can tel any more then

Summa Theol. p. 1. tit. 10. c. 3. de Indulg. fol. 202. Venet. 1582.

Vide etiam Cajetan. cap. 2. de Indulgent. Navar. Comment. de Jubil. & Indulgent.

Biel lect. 57. in Can. Miſſæ.

*De cultu Sanctorum cap. 9. § præterea.

[a] Contre le Roy de la Grand Bretagne, p. 1009.

then they can tell the age of a flock of sheep, or a company of men and children together; for one piece is old, and another is late, and another of a middle age. But the prayer which in the Canon is for the Dead, supposes that they are not in Purgatory; but prayes for them which are asleep in rest and quietness.

28. I shall not instance in any more, because I shall in other places meet with the rest: but these are a sufficient indication how the Church hath been abused by the pretence of tradition, and that a bold man may in private confidently tell his parishioner that any doctrine is a Tradition; and he is the more likely to prevail because he cannot be confuted by his undiscerning hearer, since so great parts and so many Ages of the Church have been told of things that they were traditions Apostolical, when the articles themselves are neither old nor true. Is it imaginable by a man of ordinary understanding, or that hath heard any thing of antiquity, that the Apostles should command their followers to worship the reliques of S. *James*, or S. *Stephen*; or that S. *Peter* did ever give leave to a man that had sworn, to goe from his oath, and not to doe what he had sworn he would? Is it likely that S. *Peter* or S. *Paul* should leave secret instructions with S. *Clement* or S. *Linus* that they might depose Kings lawfully when it was in their power, and when Kings did disagree in opinion from them? Is there any instance, or precept, or line, or doctrine, or history that ever any Apostle or Apostolical man consecrated the Holy Communion where there was none to communicate? It was never heard that a *Communion* could be *single*, till the *Catholick* Church came to signify the *Roman*: and yet if Scripture will not prove these things, *Tradition* must. The experience and the infinite unreasonableness of these things does sufficiently give a man warning of attending to such new traditions, or admitting the topick in any new dispute, it having been so old a cheat: and after the Canon of Scripture was full, and after that almost the whole Church had been abus'd by the tradition of *Papias* in the Millenary opinion, which for 300. years of the best and first antiquity prevailed, all the world should be wiser then to rely upon that which might introduce an error, but which Truth could never need, it being abundantly provided for in Scripture.

29. Sometimes men have been wiser, and when a Tradition Apostolical hath been confidently pretended, they would as confidently lay it aside, when it was not in Scripture. *Clemens Alexandrinus* reckons many traditions Apostolical; but no man regards them. Who believes that the Greeks were sav'd by their Philosophy, or that the Apostles preach'd to dead Infidels, and then raised them to life, although these were by *S. Clement* affirm'd to have been traditions Apostolical? Did the world ever the more believe that a Council might not be called but by the authority and sentence of the Bishop of *Rome*, though *Marcellus* was so bold to say it was a Canon Apostolical? And after *S. Hierom* had said these words, *præcepta majorum Apostolicas traditiones quisque existimat*, that what their Fathers commanded, all men were wont to call them Traditions Apostolical; no man had reason to rely upon any thing which by any one or two or three of the Fathers was called Tradition Apostolical, unless the thing it self were also notorious or proved by some other evidence. But this topick of Tradition is infinitely uncertain, and therefore if it be pretended new, it can be of no use in any of our questions. For if in the primitive Church Tradi-

Tradition was claimed by the oppoſite parties of a queſtion, who can be ſure of it now? *Artemon* pretended it to be an Apoſtolical tradition that Chriſt was ψιλὸς ἀνθρωπος *a meer man*, and the Nicene Fathers prov'd it was not ſo, but much rather the contrary: but that Topick would not prevail for either ſide. In the queſtion of Rebaptization of perſons baptized by Hereticks, both ſides pretended Tradition; ſo they did in that impertinent, but (as they then made it) great queſtion of the time of keeping Eaſter. *Clemens Alexandrinus* ſaid it was an Apoſtolical Tradition that Chriſt preached but one year; but *Irenæus* ſaid it was an Apoſtolical Tradition that Chriſt was about fifty years old when he died, and conſequently that he preach'd almoſt twenty years. But if they who were almoſt at the fountain were uncertain of the Rivers head; how ſhall we know it who dwell where the waters are ready to unboſome themſelves into the Ocean? And to pretend an Apoſtolical Tradition in matters of Faith, now that the books of the Fathers have been loſt, and yet there are a very great many to be read for the proving of Tradition, that is, that there are too many and too few, that in the loſſe of ſome of them poſſibly we have loſt that light which would have confuted the preſent pretences of Tradition, & the remaining part have paſſed through the limbecs and ſtrainers of Hereticks and Monkes and ignorants and intereſted perſons, and have paſſed through the corrections and deturpations and miſtakes of tranſcribers, (a trade of men who wrote books that they might eat bread, not to promote a truth) and that they have been diſorder'd by Zeal and Faction and expurgatory *Indices*, and that men have been diligent to make the Fathers ſeem of their ſide, and that Hereticks have taken the Fathers names and publiſhed books under falſe titles, and therefore have ſtampt and ſtain'd the Current; is juſt as if a *Tartar* ſhould offer to prove himſelf to have deſcended from the family of King *David*, upon pretence that the Jewes mingled with their Nation, and that they did uſe to be great keepers of their genealogies.

L. 1. Stromat. Lib. 2. cap. 39.

31. But after all this, the queſtion of Tradition is wholly uſeleſs in the queſtions between the Church of *Rome* and the other parts of Chriſtendome. Not onely becauſe there are many Churches of differing rites and differing doctrines from the *Roman*, who yet pretend a Succeſſion and Tradition of their cuſtomes and doctrines *per tempus immemoriale*, they know not when they began, and for ought they know they came from the Apoſtles, and they are willing to believe it, and no man amongſt them queſtions it, and all affirm it; particularly the Greek Church, the *Ruſſians*, the *Abyſſines*: but alſo becauſe thoſe articles which they diſpute with the other Churches of the Weſt cannot be prov'd by Tradition univerſal, as infinitely appears in thoſe pittiful endeavours and attempts which they uſe to perſwade them to be ſuch; which if they did not ſometimes confute themſelves, the Reader may find confuted every where by their learned adverſaries.

32. Therefore although the perfection of Scripture be abundantly prov'd, yet if it were not, Tradition will but make it leſs certain, and therefore not more perfect. For beſides that nuncupative records are like diagrams in ſand and figures efform'd in aire, volatile and ſoon diſordered, and that by the words and practice of God, and all the world, what is intended to laſt was therefore written, as appears in very many places in Scripture, [& therefore

Job calls out, *O that my words were now written, O that they were printed in a book, that they were ingraven with an iron pen and lead in the rock for ever:* upon which words the *Greek Catena* sayes, *He drawes a similitude from them who put those things in writing which they very greatly desire should remain to the longest posterity*] and that the very nature of things is such, that a Tradition is infinitely better preserved in writing then in speaking, and besides all those very many weak and uncertain and false Traditions with which several Men, and several Ages, and several Churches have abus'd others, or been abus'd themselves; I instance in two great things, by the one of which we may see how easily the Church may be imposed upon in the matter of Tradition; and by the other, how easily those men impose upon themselves whose faith hath a temporal bias and divertisement.

Exod. 17. 14 & 34. 27. Job. 19. 23, 24. Psal. 102. 19. Isai. 30. 8. Jer. 30. 2. Revel. 1. 11, 19. & 21. 5.

33. The first is, That very many Epistles of Popes, viz. from S. *Clement* to S. *Gregory*, that is, for above 500. years, were imposed upon the Church as the genuine writings of those excellent men who govern'd the Church of *Rome* in all her persecutions and hardnesses; and of these Epistles the present Church of *Rome* makes very great use to many purposes, and yet no imposture could be greater then this.

34. For 1. they are patched up of several arguments and materials not at all agreeing with the Ages in which they were pretended to be written, but are snatch'd from the writings of other men and latter times. 2. They were invented after S. *Hieroms* time, as appears in the citation of the testimonies of Scripture from *S. Hieroms* translation, and the Author cited *S. Hieroms* version of the Hebrew Psalter. 3. They were not known in *Rome* for eight Ages together: which were a strange thing that the records of *Rome* should have no copies of the Epistles of so many of the Bishops of *Rome*. 4. They are infinitely false in their Chronology, and he that invented them put the years of false Consuls to their date, as *Baronius* himself confesses quite reckoning otherwise: and in the Epistles of the whole five & fourty, the decrees of Councils and the words of Ecclesiastical writers are cited, who yet were not at all in their ages, but wrote after the death of those Popes who are pretended to have quoted them, or something is said that could not be done or said by them, or in their times. 5. They are written with the same style; and therefore it is no more probable that they should be the genuine Epistles of so many Popes, then that so many men in several Ages should have the same features in their faces: but these Epistles say over the same things several times, even unto tediousnes, and yet use the very same words without any differing expressions. 6. And sometimes these words were most intolerably barbarous, neither elegantly fine, nor elegantly plain, but Solecismes, impure words and the most rude expressions, not unlike the Friers Latine or the *Epistolæ obscurorum virorum*. 7. None of the Ancient writers of the Church did ever cite any testimony from these Epistles for 800. years together, onely one part of one of the Epistles of *S. Clement* was mention'd by *Ruffinus* and the Council of *Vase*. 8. None of those who wrote histories Ecclesiastical, or of the Church-writers, made mention of them: but all that doe were above 830. years after the Incarnation of our Blessed Lord. 9. And all this beside the innumerable errors in the matter which have been observed by the Centuriators of *Magdeburg*, *David Blondel* and divers others. And a more notorious

rious cheat could never have been impoſed upon the world; but that there are ſo many great notorieties of falſhood, that it is hard to ſay which is greater, the falſhood of the *Pontifical Book*, or the boldneſs of the Compiler. Now if ſo great a heap of Records can at once be clapp'd upon the credulity of men, and ſo boldly defended as it is by *Turrian* and *Binius*, and ſo greedily entertain'd as it is by the Roman Confidents, and ſo often cited as it is by the Roman Doctors, and yet have in it ſo many ſtrange matters ſo diſagreeing to Scripture, ſo weak, ſo impertinent, and ſometimes ſo dangerous, there is very great reaſon to reject the topick of Traditions, which can be ſo eaſily forged, and ſometimes rely upon no greater foundation then this, whoſe foundation is in water and ſand, and falſhood that is more unſtable.

35. The other thing is, that Hereticks and evil perſons, to ſerve their ends, did not onely pretend things ſpoken by the Apoſtles and Apoſtolical and Primitive men, (for that was eaſy) but even pretended certain Books to be written by them, that under their venerable names they might recommend and advance their own heretical Opinions. Thus ſome falſe Apoſtles (as *Origen* relates) wrote an Epiſtle and ſent it to the Church of *Theſſalonica* under S. *Pauls* name, which much troubled the *Theſſalonians*, and concerning which, when S. *Paul* had diſcovered the impoſture, he gives them warning that they ſhould not be troubled about any ſuch Epiſtle, as if he had ſent it. Thus there was a Book publiſh'd by an Aſian Prieſt under S. *Pauls* name (as S. *Hierome* reports) containing the Viſion of *Paul* and *Tecla*, and I know not what old tale of the baptizing *Leo*. Some or other made S. *Clement* an Eunomian, and *Dionyſius* of *Alexandria* an Arrian, and *Origen* to be every thing, by interpolating their Books, or writing Books for them. *Ruffinus* tells that the Hereticks endeavoured to corrupt the Goſpels: and that they did invent ſtrange Acts of the Apoſtles, and make fine tales of their life and death, we need no better teſtimony then *Tertullians* inſtances in his Books againſt *Marcion*: and for this reaſon *Origen* gives caution, *Oportet cautè conſiderare, ut nec omnia ſecreta quæ feruntur nomine Sanctorum ſuſcipiamus, We muſt warily conſider, and not receive all thoſe ſecret traditions which goe up and down under the names of Saints*, [*viz.* of the holy Apoſtles.] And of the ſame nature is that famous cheat that uſurps the name of *Dionyſius* the Areopagite, called [*The Paſſion of Peter and Paul*] as who pleaſe may ſee in *Laurentius Valla* and *Eraſmus*. And ſuch is the Book of the ſame Paſſions attributed to *Linus*, which was invented ſo fooliſhly and careleſly that it contradicts the Scriptures moſt apparently; as every one that reads it may without difficulty obſerve. Now the obſervation from theſe things is plain: In the matter of Traditions as they are now repreſented there is ſo much of humane failings, and ſo little of Divine certainty, they are often falſly pretended, and never truly proved, and if they ſhould need to be proved, were therefore not to be accepted; becauſe no particular proofs can make them univerſal, and if they be not univerſal, of themſelves they cannot be credible, but need ſomething elſe to make them ſo; they are (whether true or falſe) ſo abſolutely now to no purpoſe, becauſe it is too late to prove them now, and too late to need them, the Church having ſo long accepted and relied upon the Canon of Scripture, that we are plainly, and certainly, and neceſſarily devolv'd upon Scripture for the Canon of our Faith and lives. For though no man ought to reject Tradition if he did need it, and if he could have

Homil 26. in Matth.

have it, yet because he neither can want it (because Scripture is a perfect Rule) nor can have it (because it cannot in any of our questions be prov'd) we must rely upon what we have. It is in the matter of traditions as in the Epistle of S. *Paul* to *Laodicea:* if this or those were extant and sufficiently transmitted and consign'd to us, they would make up the Canon as well as those we have: but there is no such thing as the *Laodicean* Epistle, and there is no such thing as tradition of doctrines of Faith not contained in Scriptures. The Fathers that had them, or thought they had them, might call upon their Churches to make use of them; but we that cannot have them, must use what we have; and we have reason to give thanks to God that we have all that God intended to be our Rule. God gave us in Scripture all that was necessary; it was a perfect Rule; and yet if it had not, it must become so when we have no other.

36. But upon the matter of this Argument, there are three Questions to be considered in order to Faith and Conscience.

1. Whether there be not any rules and general measures of discerning tradition, by which although tradition cannot be prov'd the natural way, that is, by its own light, evidence of fact and notoreity, yet we may be reasonably induc'd to beleeve that any particular is descended from tradition Apostolical, and consequently is to be taken in, to integrate the rule of Conscience?

2. How farre a negative Argument from Scripture is valid, and obligatory to Conscience?

3. Whether there may be any new Articles of Faith, or that the Creed of the Church may so increase, that what is sufficient to salvation in one Age cannot serve in another?

1. *Question* is concerning the indirect ways of discerning Tradition.

37. In vain it is to dispute whether traditions are to integrate the Canon of Scripture, when it cannot be made to appear that there are any such things as Apostolical traditions of doctrines not contained in Scripture. For since the succession in all the Chairs hath been either interrupted or disordered by warres or heresies, by interest or time, by design or by ignorance, by careleſsness or inconsideration, by forgetfulness or unavoidable mistake, by having no necessity of tradition, and by not delivering any, it is in vain to dispute concerning the stability of atomes, which as of themselves they are volatile and unfixt, so they have no basis but the light aire: and so are traditions; themselves are no argument, and there are no traditions; they are no necessary or competent stabiliment of doctrine or manners, or if they were, themselves have no stabiliment.

38. For it is certain there can be no tradition receiv'd for Apostolical at a less rate then the rule of *Vincentius Lirinensis*. For to prove by Scripture that there are any traditions not written in Scripture is a trifling folly; since there might be necessity of keeping traditions before all that which is necessary was set down in writing. So that all the pretensions taken from Scripture in behalf of traditions are absolutely to no purpose, unless it were there said, There are some things which we now preach to you which

ſhall never be written; keep them: but the naming of [*traditions*] in ſome Books of Scripture, and the recommending them in others, is no argument to us to inquire after them, or to rely upon them; unleſs that which was delivered by Sermon was never to be delivered by writing, and that we knew it as certainly as that which is. * And the ſame is to be ſaid of the ſayings of Fathers who recommend traditions: for although the argument leſſened every year, yet it was better then, then it can be now; it could ſerve ſome uſes then, it can ſerve none now; it might in ſome inſtances be certain, and ſafe in many, but now it cannot be either, neither certain, nor ſafe, nor neceſſary, nor of any uſe at all: which having made to appear in the preceding numbers, it muſt follow that there can be no doctrinal traditions beſides the matters of Scripture; becauſe there are none ſuch recommended to the Church by the meaſures of *Vincentius Lirinenſis*. There is no doctrine, no rule of Faith or Manners which is not in the Holy Scriptures, and yet which was *believed always, and in all Churches, and of all men in thoſe Churches.* For although it is very probable that *Vincentius* by this rule intended to reprove the novelties and unuſual doctrines which S. *Auſtin* by his great wit and great reputation had brought into the Church, contrary to the ſentiments and doctrines of the Fathers which were before him; yet it will perfectly ſerve to reprove all our late pretenſions to traditions. For by this meaſure, we finde it not to be enough that a Doctrine hath been received for a thouſand years together by the Catholick Church, reckoning from this period upwards; unleſs it were alſo received by the Apoſtolical ages and Churches throughout the world, it is nothing: and if it were received by all the Apoſtolical Churches, and all good and wiſe men in thoſe Churches, and ſo downwards; whereever any Church failed, it was to their own prejudice, not to the prejudice of the doctrine; for that was Apoſtolical which was from the beginning; and whatſoever came after could not change what was ſo before; and the interruption of an Apoſtolical truth, though for a thouſand years together, cannot annul the obligation, or introduce the contrary. So that if we begin to account by this rule of *Vincentius* and goe backwards, it is nothing unleſs we goe back as farre as to the Apoſtles inclusively: but if we begin there, and make that clear, it matters not how little a way it deſcends: and therefore although it is an excellent rule to reprove vain and novel pretenſions, yet there is nothing to be proved by it practicably; for we need not walk along the banks and intrigues of *Volga*, if we can at firſt point to the fountain; it is that whither the long progreſſion did intend to lead us. If any thing fails in the principle it is good for nothing; but if the tradition derive from the fountain, and the head be viſible, though afterwards it ran under ground, it is well enough. For if a doctrine might invade the whole Church which was not preached by the Apoſtles, or if the doctrine might to many good and wiſe perſons ſeem to have poſſeſſed the whole Church, that is, to be believed by all thoſe that he knows, or hears of, or converſes with, and yet not have been the doctrine of the Apoſtles; it is certain that this univerſality, and any leſs then that which takes in the Apoſtles, can never be ſufficient warranty for an article of Faith or a Rule of life, that is, the inſtance and obligation of a duty neceſſary to ſalvation. But how ſhall we know concerning any doctrine, whether it be a tradition Apoſtolical? Here the Rule of *Vincentius* comes in. If it can be made to appear that all Churches and all Men did from the Apoſtles times down to the time of inquiry accept it as true, and re-

port

port it from the Apostles, then it is to be so received and continued. Indeed a less series and succession will serve. For if we can be made sure that the Age next to the Apostles did universally receive it as from the Apostles, then we may not reject it. But what can make faith in this? certainly nothing; for there is no doctrine so delivered but what is in Scripture. Indeed some practices and rituals are, because the publick exercise and usages of the Church being united and notorious, publick and acted, might make the rite evident as light; but in doctrines (besides Scriptures) we have not records enough to doe it: and therefore this general rule of *Vincentius* not being practicable, and the other lesser rules or conjectures rather being incompetent, μένωμεν ὥσπερ ἐσμὲν, we must *remain as we are*, and give God thanks for the treasures of Holy Scripture, and rejoyce and walk in the light of it.

39. But let us try a little. The first Rule which is usually given is this; *That which the Catholick Church believes as an article of faith, which is not found in Scriptures, is to be believed to descend from Apostolical tradition.* This Rule is false and insufficient upon many accounts.

1. For if the Church can erre, then this Rule can have no firmament or foundation. If she cannot erre, then there is no need either of Scriptures or Tradition; and there is no use of any other argument to prove the truth of an article or the Divinity of a truth, but the present belief and affirmation of the Church, for that is sufficient whether it be written or not written, whether it be delivered or not.

But 2. Supposing the Church could not erre in matters of Faith, yet no man says but she may erre in matter of fact: but whether this thing was delivered by the Apostles is matter of fact; and therefore though the Church were assisted so that she could not mistake her article, yet she may mistake her argument and instrument of probation: the conclusion may be true, and yet the premisses false; and she might be taught by the Spirit, and not by the Apostles.

3. No man now knows what the Catholick Church does believe in any question of controversy; for the Catholick Church is not to be spoken with, and being divided by Seas, and Nations, and interests, and fears, and Tyrants, and poverty, and innumerable accidents, does not declare her minde by any common instrument, and agrees in nothing but in the Apostles Creed, and the Books of Scripture; and millions of Christians hear nothing of our controversies, and if they did, would not understand some of them.

4. There are thousands that doe believe such an article to be taught by the Catholick Church, and yet the Catholick Church with them is nothing but their own party; for all that believe otherwise they are pleased to call Hereticks. So that this Rule may serve every party that is great, and every party that is little, if they will adde pride and contumacy to their article: and what would this Rule have signified amongst the Donatists, to whom all the world was heretick but themselves? and what would it signify amongst those peevish little Sects that damne all the world but their own congregations? even as little as it can to the Church of *Rome*, who are resolved to call no Church Catholick but their own.

5. The believing of such an article of faith could not be indication of a true Catholick, that is, of a true member of the Catholick Church; because if the article is to be proved to be Apostolical by the present belief of the

Catholick Church, either the Catholick Church is the whole Christian Church, and then we can never tell what she believes in a particular question, and indeed she believes nothing in the question, because if it be a question, the Catholick Church is divided in her sense of it; or else the Catholick Church is some *body* or Church of Christians separate from the rest, and then that must by other means be first known that she is the Catholick Church, before we can accept her belief to be an argument that the article is an Apostolical Tradition. Adde to this, that the Churches believing it, is not, cannot be an argument that the doctrine is Apostolical; but on the contrary it ought to be prov'd to be Apostolical before it is to be admitted by the Churches. And if it be answer'd, that so it was to those Churches who admitted it first, but to us it ought to be sufficient that the Church received it, and we ought therefore to conclude it to be Apostolical: I reply, that it is well if it was at first prov'd to the Church to be Apostolical; but then if the primitive Church would not receive the doctrine without such evidence, it is a sign that this was the right way of proceeding, and therefore so ought to be with us: they would not receive any doctrine unless it were prov'd to come from the Apostles, and why should we? and to say that because they receiv'd it, we ought to suppose it to have been Apostolical, I say that is to beg the question: for when we make a question whether the Church did well to receive this doctrine, we mean whether they did receive it from the Apostles or no. And therefore to argue from their receiving it, that it was Apostolical, is to answer my question by telling me, I ought to suppose that, and to make no question of it. But if this rule should prevail, we must believe things which even to affirm were impudent. The Church of *Rome*, calling her self the Catholick Church, affirms it to be Heresy to say that it is necessary to give the Communion under both kinds to the Laity: but he that will from hence, though he believe that Church to be the Catholick, conclude that doctrine to be the Apostolick, must have a great ignorance or too great a confidence. Nay this rule is in nothing more apparently confuted then in this instance; for the Canon in the Council of Constance which establishes this for Catholick doctrine, by confessing it was otherwise instituted by Christ, and otherwise practis'd at the beginning, confesses it not to be Apostolick. So that upon this account it is obvious to conclude that either the universal Church can erre, or else the same thing can come and cannot come from Tradition Apostolical. For the half-Communion is no where commanded in Scripture; therefore either the Ancient Catholick Church did erre in commanding the whole Communion, or the modern Catholick Church (I mean the Roman, which pretends to the name) does erre in forbidding it; or else, if neither does erre, then the Communion under both kinds did come and did not come from Tradition Apostolical.

But 6. suppose it were agreed that one Congregation is the Catholick Church, and resolved upon which is that Congregation, yet if it be but a part of Christians, and that interested, it is not in the nature of the thing to inferre, that because this interested, divided part believes it, therefore the Apostles taught it: this Consequent is not in the bowels of that Antecedent, it cannot be prov'd by this argument: if it can be proved by revelation, that what the present Church believes, was a Tradition Apostolical, let it be shewn, and there's an end of it. In the mean time this rule is not of it self certain, or fit to be the proof of what is uncertain, and

therefore

therefore not a good rule, till it be proved by revelation.

7. It is evidently certain that what one Age believes as a necessary doctrine, another Age (I mean of the Catholick Church) did not believe for such; and it is not sufficient for the making of a Catholick doctrine that it be *ubique*, believ'd *every where*, unless it be also *semper & ab omnibus*, *alwayes and by all men*. I instance in the Communicating of Infants, which was the doctrine of S. *Austin* and of Pope *Innocentius*, and prevail'd in the Church for 600. years (saies *Maldonat* the Jesuit) that it was necessary to the salvation of Infants, that they should receive the holy Sacrament of the Lords Supper. Now it is also as certain that for 600. years more, the Church which calls her self Catholick believ'd the contrary. Which of these can prove Apostolical Tradition? For if it be objected that this was not the doctrine of the Catholick Church in those ages in which the most eminent Fathers did believe and practise it, besides that it is not probable that they would teach it to be necessary, and generally practise it in their Churches, if the matter had been nothing but their own opinion, and disputed by others; I adde this also, that it was as much the doctrine of the Catholick Church, that it was necessary, as it is now, that it is not necessary: for it is certain the Holy Fathers did believe and teach and practise it, and the contrary was not disputed; but now though it be condemned by some, it is still practis'd by very great parts of the Catholick Church, even by all the Greek Church, and by those vast numbers of Christians in *Ethiopia*. So that although no doctrinal Tradition is universally received but what is contained in Scriptures; yet those that have been received as universally as any other matter of question is, have been and have not been believ'd by the Church in several ages: and therefore if this rule be good, they must prove that the same doctrine was and was not a Tradition Apostolical.

In cap. 6. Johan. n. 11.

Vide Hierem. Patriar. C. P. doctr. & exhort. ad Germanos.

8. This Rule were good (and then indeed onely) if there were no way to make an opinion to be universally receiv'd but by derivation from the Apostles. But 1. there are some which say every Age hath new revelations: where this is believ'd, it is apparent an opinion which the Apostles never heard of, may be adopted into the faith and universally received. But besides this there are more wayes of entry for a popular error then any man can reckon or any experience can observe. 2. It is not impossible that some leading man may be credulous and apt to be imposed upon by Hereticks and Knaves; but when he hath weakly received it, it shall proceed strongly upon his authority. The matter of *Papias* about the doctrine of the *Chiliasts* is notorious in this particular. 3. It is also very possible that what is found at first to be good, shall be earnestly press'd by a zealous man, and he may over-express himself, and consider not to what consequence it may afterwards be extended; and then following ages may observe it, and make a Logical conclusion from a Rhetorical expression; and then what onely good men had entertain'd when it was called *useful*, all men shall receive when it is called *necessary*; and it is no great progression from what all men believe good, that some men should believe necessary, and from them others, and from others all men. It was thus in many degrees in the matter of Confession and Penance. 4. It is not very unlikely, certainly it is no way impossible, but that the reputation of some great man in the Church may prevail so far by our weaknesses and his own accidental advantages, that what no man at first questions, very many will afterwards believe, and they introduce more, and from more to most, and from most to all

men, are no impoſſible progreſſions, if we conſider how much mankind (eſpecially in Theology) have ſuffered the authority of a few men to prevail upon them. 5. Does not all the world ſee that zeal makes men impatient of contradiction, and that impatience makes them fierce in diſputing, and fierce in fighting, and ready to perſecute their enemies? and what that Unity and Univerſality is which can be introduc'd by force, a great part of the world hath had two long an experience to be ignorant. 6. Beyond all this, a propoſition may be ſuppos'd to follow from an Apoſtolical Tradition, and prevail very much upon that account; and yet it would be hard to believe the Scholars deduction equally with the Maſters Principle, and a probable inference from Tradition equal to the very affirmative of the Apoſtles. A man may argue, and argue well too, and yet the Concluſion will not be ſo evident as the Principle: but that it may equally prevail, is ſo certain, that no man can deny it but he that had never any teſtimony of the confidence of a diſputing man, and the compliance of thoſe who know not ſo well, or inquire not ſo ſtrictly, or examine not ſuſpiciouſly, or judge not wiſely.

40. 2. The next Rule which is pretended for the diſcovery of an Apoſtolical Tradition is this, *That which the Univerſal Church obſerves, which none could appoint but God, and is not found in Scripture, it is neceſſary to ſay that it was delivered by Chriſt and his Apoſtles.* This Rule muſt needs be falſe, becauſe it does actually deceive them that rely upon it. Becauſe their Church, which they will fondly ſuppoſe to be the Catholick, uſes certain Sacramentals to conferre grace, (which none could inſtitute but Chriſt, who alone is the fountain of grace) and the Holy Spirit to his ſervants: but yet to pretend that they are Traditions Apoſtolical were the greateſt unreaſonableneſs in the world. I inſtance in holy water, baptizing of bells, hallowing of *agnus Dei's*, roſes, ſwords, hats, Chriſme and the like, which no man can fairely pretend to be Traditions Apoſtolical, but yet they are practis'd by all their Catholick Church, and they are of ſuch things as no man but God could be the author of, if they were good for any thing; but then to conclude from hence that they are Traditions Apoſtolical, were juſt as if one were to give a ſign how to know whether lying were lawful or unlawful, and for the determination of this queſtion ſhould give this rule, *Whatſoever mankind does univerſally which they ought not to doe without Gods law, that certainly they have a law from God to doe*; but all mankind are given to lying, and yet nothing can make it lawful to lye, unleſs there be a warranty or no prohibition from God to lie; therefore certain it is that to lye deſcends from the authority of God. Indeed if the Catholick Church could not be uncharitable, if they could not ſin againſt God, then it were certain, if they all did it, and it were not warranted in Scripture, it muſt be from God: but it does not follow, it would be by Tradition; becauſe it may be by the dictate of right reaſon, by natural principles, or it would be a thing indifferent; but that it muſt be by Tradition, if it were not by Scripture, or by the Church, were as if we ſhould ſay, if *Lælaps* be not a horſe, or begotten by a Lyon, he muſt needs be a Bear: but theſe rules are like dead mens candles, they come from no certain cauſe, and ſignifie no determin'd effect, and whether they be at all, we are no ſurer then the reports of timorous or phantaſtick perſons can make us. But this Rule differs not at all from the former, ſave onely, that ſpeaks of doctrinal, and this of ritual

Tradi-

Traditions: but both relying upon the same reason, and that reason failing (as I have prov'd) the propositions themselves doe fail. But then as to rites, it is notorious beyond a denyall, that some rites used in the Universal Church, which are also said to be such which none ought to appoint but God, were not delivered by the Apostles. I instance in the singularity of baptisme of Hereticks, which the whole Church now adheres to, and yet if this descended from Apostolical Tradition, it was more then S. *Cyprian* or the *African* Churches knew of, for they rebaptized Hereticks, and disputed it very earnestly, and lived in it very pertinaciously, and died in the opinion.

41. 3. The third rule is, *Whatsoever the Catholick Church hath kept in all ages by-gone, may rightly be believed to have descended from the Apostles, though it be such a thing which might have been instituted by the Church.* This rule is the same with that of *Lirinensis*, of which I have already given account: and certainly in those things in which it can be made use of (which are extremely few) it is the best, and indeed the onely good one. But then this can relate onely to Rituals, not to matter of Doctrine; for nothing of this can be of Ecclesiastical institution and appointment: it cannot be a doctrine of Faith unless it be of Divine Tradition; for Christ is the Author and finisher of our Faith, which the Church is to preach and believe, not to enlarge or shorten, not to alter or diversify. But then as to Rituals, the keeping of Easter on the first day of the week by this rule cannot be prov'd to be an Apostolical Tradition; because the *Asian* Churches kept it otherwise: and by this rule the keeping of Lent fast for 40. dayes will not be found to be an Apostolical Tradition; because the observation of it was very full of variety, and some kept it 40. houres, some a day, some a week, as I shall afterwards in its proper place make to appear. But by this rule the distinction of Bishops and Presbyters is an Apostolical Tradition (besides the Scriptures, by which it appears to be Divine;) by this the consecration of the Blessed Eucharist by Ecclesiastical persons, Bishops and Priests, is certainly a Tradition Apostolical; by this the Lords day is deriv'd to us from the Apostles; and by this the Baptisme of infants is much confirm'd unto the Church: and whatsoever can descend to us and be observed in this channel, there is no sufficient reason to deny it to be Apostolical: but then how far it can be obligatory to all Ages and to all Churches, will be another consideration; it being on all hands confessed, that some Rituals which were observed in the Apostles times are with good cause and just authority laid aside by several Churches. But of this I shall give particular accounts.

42. 4. *When all the Doctors of the Church by common consent testify concerning any particular that it descends from Apostolical tradition, we are to hold it for such: whether they affirm this in all their writings, or together in a Council.* To this Rule I answer, That where it would doe good there it is not practicable, and where it is practicable there it is not true. For it is indeed practicable that a Council may give testimony to a particular that it came from the Apostles; but it does not follow that they are not deceived, for it never was, and it never will be that all the Doctors of the Church shall meet together in Council, and unless they doe, their testimony is not universal. But if all the Fathers should write in their Books that such a thing was delivered by the Apostles, unless it were evidently

againſt Scripture or right reaſon, there could be no ſufficient cauſe to disbelieve it; and it were the beſt way we have of conveying and handing the tradition to us, next to the univerſal practice of the Church in her Rituals. But there is no ſuch thing ſo conveyed to us: and therefore *Bellarmine* plays at ſmall game with this Rule, and would fain have the world admit Tradition for Apoſtolical, if ſome Fathers of great name ſay ſo, and others that ſpeak of the ſame thing contradict it not. But this is a plain begging that, when he cannot prove a thing to be Tradition Apoſtolical by a good argument and ſufficient, we will be content to take it without proof, or at leaſt to be content with ſuch as he hath, and believe his own word for the reſt, though he knowes nothing of it. If it failes or goes leſs then *Omnibus*, and *Semper*, and *Ubique*, which is *Vincentius* his meaſure, it cannot be warranted, and he that allowes it is more kind then wiſe. S. *Baſil* proves the perpetual Virginity of the Bleſſed Virgin *Mary* by a Tradition that *Zechary* was ſlain by the Jewes between the Porch and the Altar for affirming her to be a Virgin after the birth of her moſt Holy Son: but S. *Hierom* ſayes it is *Apocryphorum ſomnium*, a dream of Apocryphal perſons. But it was a long time before the report of the Milleniary Tradition was contradicted, and yet in that intervall in which many of the moſt eminent Fathers atteſted it to have deſcended from the Apoſtles, it was neither true nor ſafe to have believed it. But then as to the particular and more practicable part of this rule, That if a general Council affirmes it to be Tradition Apoſtolical it is ſo to be accepted, it is evidently fallacious and uncertain; for the ſecond Council of Nice affirm'd the veneration of Images to be an Apoſtolical Tradition: but it is ſo far from being true that it was ſo as they affirm'd, that not onely the Apoſtolical but divers of the following ages hated all Images, and did not think it lawful ſo much as to make them; of which I have already given a large account in this book.

43. 5. *When the Apoſtolical Churches, which from the Apoſtles have had uninterrupted ſucceſſion, doe witneſs concerning any thing that it is Apoſtolical tradition, it is to be admitted for ſuch.* This rule was good before the Chanels were mingled with impure waters entring in: It was uſed by *Irenæus*, *Tertullian*, S. *Auguſtine*, and others; and it was to them of great advantage. But although it was good drinking of *Euphrates* when it newly ran from the garden of *Eden*, yet when it began to mingle with the *Borborus* it was not good: and who durſt have truſted this Rule when *Dioſcorus* was Biſhop of *Alexandria*, who yet was lineally deſcended from S. *Mark*? And who durſt have relied upon this Rule when Pope *Julius* abſolved the *Sabellian* Hereticks, and communicated with *Marcellus Ancyranus*? and when S. *Baſil* complains of the Weſtern Biſhops, and particularly the *Roman*, *quòd veritatem neque nôrunt, neque diſcere ſuſtinent . . . cum iis qui veritatem ipſis annunciant contendentes, hæreſin autem per ſe ipſos ſtabilientes*: *that they neither know the truth, nor care to learn it; but they contend with them who tell them the truth, and by themſelves eſtabliſh hereſy. Quia multi Principes & ſummi Pontifices & alii inferiores inventi ſunt apoſtataſſe à fide, propterea eccleſia conſiſtit in illis perſonis in quibus eſt notitia vera, & confeſſio fidei & veritatis.* How can this rule guide any man when all the Apoſtolical Churches have fallen into error, and many Popes have been apoſtates from the Faith, and the Church conſiſted not of Prelates, but indifferently of all that believ'd and profeſs'd the truth which the Popes and

and Princes and Prelates did deny? The Apostolical Church of Antioch is not; and the Patriarchal Church of Alexandria is accus'd by the Latines of great errors; and the Mother Church of Jerusalem hath no succession, but is buried in ruines; and the Church of *Rome* is indeed splendid, but he that will take her word for Tradition is sure to admit many false ones, but not sure of any true, but such as she hath in common with all the Churches of the world.

44. I conclude therefore this question, that amongst those rules of discerning Traditions truly Apostolical from them that are but pretended such, there is no rule competent but one, which is scarcely practicable, which indeed transmits to the Church a few Rituals, but nothing of Faith or rule of good life; and therefore it is to no purpose to look any where else for the Divine Rule of Conscience but in the pages of the Old and New Testament: they are sufficient, because they were intended by God to be our onely Rule; and yet if God had intended Traditions to be taken in, to integrate the Rule and to oblige our Conscience, it is certain that God intends it not now, because the Traditions are lost if there were any, and if they be now, they doe not appear, and therefore are to us as if they were not.

II. Question.

45. The second Question also does very nearly relate to Conscience and it's conduct. viz. *Since the Scripture is the perfect Rule of Conscience, and contains in it all the will of God, whether or no, and how far is a negative argument from Scripture to prevail?*

46. The resolution of this depends upon the premisses. For if Scripture be the intire Rule of Faith, and of Manners, that is, of the whole service and worship of God, then nothing is an article of Faith, nothing can command a moral action, that is not in it's whole kind set down in Scripture. This I proved by direct testimonies of *Tertullian*, S. *Basil*, S. *Austin*, S. *Cyril*, *Theophilus Alexandrinus* and S. *Hierome*, in the * foregoing numbers. To which I adde these excellent words of S. *Cyril* of *Jerusalem*, speaking of the Jerusalem Creed, which he had recited and explicated and promis'd to prove from Scripture; he gives this reason, *Nam Divinorum sanctorumque fidei mysteriorum nihil, ne minimum quidem, absque Divinis Scripturis tradi debet, neque simplici probabilitate neque verborum ornatu traduci. Not the least part of the Divine and Holy mysteries of Faith must be delivered without the Divine Scriptures. Believe not me telling thee, unless I demonstrate what I say from the Divine Scripture. For the safety and conservation of our Faith relies upon the proof of the Divine Scriptures.* But because there are some particulars and some variety in the practise of this rule, I am to consider it now to other purposes. * Vide Num. 9.

47. 1. *Nothing is necessary either to be believ'd or done unless it be in Scripture.* Thus S. *Gregory Nyssen* argues, *Ubinam dixit Deus in Evangeliis oportere credere in unum & solum verum Deum? Non possent ostendere nisi habeant ipsi novum aliquod Evangelium. Quæ n. ab antiquis per traditionem ad hæc usque tempora in Ecclesiis leguntur, hanc vocem non continent quæ dicat, oportere credere vel baptizare in unum solum verum Deum, quemadmodum* Orat. 2 contra Eunomium.

admodum iſti autumant, ſed in nomen Patris & Filii & Spiritus Sancti. I have I confeſs ſomething wondred at the matter of this diſcourſe. For either the Arrians have infinitely impoſed upon us, and interpolated Scripture in a very material article; or elſe S. *Gregory* forgot the 17. of S. *John* and the 3. verſe; or elſe he inſiſted onely upon the words δεῖ πιστεύειν, for the ſame ſenſe is in the place now cited. For if this be *life eternal to know him the onely true God, and whom he hath ſent Jeſus Chriſt*, then alſo to believe in them onely is life eternal, and then we are tied to believe in none elſe; for we cannot believe in that we doe not know. Indeed the words are not there or any where elſe, that we *ought to believe in* [God the Father] *him, the one, onely true God*, &c. But certainly, if we are to *know* him onely, then onely to believe in him ſeems to be a very good conſequent. But S. *Baſil* therefore onely inſiſted upon the very words, and thought himſelf ſafe (as indeed he was) upon the reverſe of another argument. For ſince the words *oportere credere in unum ſolum verum Deum* were not in S. *John* or any where elſe, he concluded the contrary ſenſe from a very good argument: we are commanded to be baptized into the faith of Father, Son, and Holy Ghoſt, therefore we are to believe in three: and becauſe the word [*believe*] was not ſet down expreſly, where knowledge is confin'd to one or two, therefore it cannot be ſaid that we are tied to believe onely in one or two: but becauſe to believe in three can be inferr'd as a duty from another place, therefore it cannot be denied as a conſequent from this; and therefore he had reaſon to inſiſt upon his negative argument. Thus S. *Auſtin* alſo argued, *Pater enim ſolus nuſquam legitur miſſus, The Father is never in Scripture ſaid to be ſent; therefore no man muſt ſay it.* So *Epiphanius, Ipſa dictio non omnino cogit me de Filio Dei dicere: non enim indicavit Scriptura, neque quiſquam Apoſtolorum meminit, neque Evangelium. The manner of ſpeaking compels me not to underſtand it of the Son of God: For the Scripture hath not declared it; neither the Goſpel nor any of the Apoſtles hath made any mention of it.*

Lib. 2. de Trinit. cap. 5. & cap. 6. contr. hær. l. 2. tom. 2.

48. 2. *A negative argument from the letter of Scripture is not good, if the contrary affirmative can be drawn by conſequent from any part of it.* Thus our Bleſſed Saviour confuting the Sadducees in the article of the Reſurrection hath given us a warranty for this proceeding; *God is the God of Abraham, Iſaac, and Jacob.* Theſe were the words of Scripture. But theſe directly would not doe the work. But therefore he argues from hence, *God is not the God of the dead, but of the living:* therefore theſe men are alive. That the Holy Ghoſt is God is no where ſaid in Scripture; that the Holy Ghoſt is to be invocated is no where commanded, nor any example of its being done recorded. It follows not therefore that he is not God, or that he is not to be invocated: and the reaſon is, becauſe that he is God is a certain conſequent from ſomething that is expreſly affirmed; and therefore the negative argument is imperfect, and conſequently, not concluding. *Quæ neque à Chriſtianis dicuntur neque creduntur, neque ex conſequente per ea quæ apud nos certa ſunt & conceſſa intelliguntur*, &c. If Chriſtians did never ſpeak, nor believe any ſuch thing, nor can they be drawn from the conſequence of thoſe things which are certain and granted amongſt us, then indeed it is to be rejected from our Creed. Now amongſt Chriſtians this is believed as certain, that we may pray to him in whom we believe; that we believe in him into the faith of whom we are baptized; that we are commanded to be baptized into the belief and profeſſion of the Father,

S. Greg. Nyſſen. ibid.

Father, Son, and Holy Ghost: from hence Christians doe know that they are to invocate the Holy Ghost. For S. *Pauls* argument is good, *How shall we call on him on whom we have not believed?* therefore we may call on him if we believe on him: according to that Rule of reason, *Negatio unius diversum affirmat, The denying of one is the affirmation of its contrary* in the like matter. And something of this was used by *Paschasius* the Deacon: and the effect of it prevail'd upon the account of a negative from Scripture; *In nullis autem Canonicis libris, de quibus Symboli textus pendet, accepimus, quia in Ecclesiam credere sicut in Spiritum Sanctum Filiúmque debemus, We are taught in no Scripture (from whence the Creed is deriv'd) to believe in the Church, as we believe in the Son and in the Holy Ghost:* and therefore we ought not to doe it; but it being plain in the Creed, and consequently in the Scripture, that we must believe in the Holy Ghost, therefore also we may pray to him, and confess him to be God. To the same purpose S. *Basil* argues concerning the Holy Spirit; *Dignitate namque ipsâ secundum esse à Filio pietatis sermo fortassis tradit: naturâ verò tertiâ uti nec à Divinis Scripturis edocti sumus, nec ex antecedentibus possibile est consequenter colligi,* That the Holy Spirit is of a nature distinct from the Father and the Son we neither are taught in Scripture, *neither can it be drawn into consequence from any antecedent pretences.* * Lib. de Spir. c. 1.

* *Nonne perspicuum est, ista, tametsi non dicantur, tamen ex illis colligi quæ hæc necessariò efficiant ac probent? Quæ tandem? Ego sum primus, & post hæc, & ante me non est alius Deus, & post me non erit. Totum enim quicquid est, mecum est, nec principium habens, nec finem habiturum. His à Scriptura acceptis, illud quidem, quod ante eum nihil sit, nec antiquiorem causam habeat, Anarchum & Ingenitum appellasti: quod autem nunquam desiturum sit, Immortale, exitiique expers.* Nazianz. lib. 5. Theol. interprete Jacobo Billio. Et infra, *Cum ergo in nominibus & rebus tantum discrimen reperiatur, quid causæ est cur literæ tantopere tertias, Judaicæque sapientiæ teipsum adjungas, relictisque rebus syllabas consectaris? Quod si te bis quinque aut bis septem dicente, decem aut quatuordecim ex verbis tuis colligerem, aut ex eo quod animal ratione præditum, & mortale diceres, hominem esse concluderem, an tibi viderer delirare? Neque enim verba magis sunt ejus qui loquitur quam illius qui loquendi necessitatem simul affert.*

49. 3. *A negative argument of a word or an expression cannot be consequently deduc'd to the negation of the mystery signified by that word.* The Arrians therefore argued weakly, Shew us in all the Scripture that the Son is called ὁμοούσιον or *Consubstantial* to the Father; if you cannot, you ought not to affirm it. For we know God is one; if therefore we finde in Scripture that the Son is true God, we know he must needs be of the same substance with his Father; for two substances cannot make one God. So though the Blessed Virgin *Mary* be not in Scripture called θεοτόκος *the Mother of God*, yet that she was the Mother of Jesus, and that Jesus Christ is God, and yet but one person, that we can prove from Scripture, and that is sufficient for the appellative: and if the Church of *Rome* could prove the mystery of Transubstantiation from Scripture, we would indulge to them the use of that word, or any other aptly to express the same thing.

50. 4. *A negative argument from Scripture is sufficient to prove an article not to be of necessary belief, but is not sufficient to prove it not to be true:* because although the Scripture is the measure of Faith and of Manners, yet it is an adequate measure of all truth. The meaning of which rule takes in all truths of art, of experience, of prudence, of tradition and common report. Thus although it be no where said in Scripture that our Blessed Saviour said, *Nunquam læti sitis nisi cum Fratrem vestrum in charitate videritis, Be never very merry but when you see your Brother in charity*; yet S. *Hierome* reports it of him, and it is a worthy saying, and therefore may very well be entertain'd, not onely as true and useful, but as from Christ. The Scripture

Scripture no where ſays that the bleſſed Virgin was a Virgin perpetually to the day of her death: but as therefore it cannot be obtruded as an article of faith, yet there are a great many decencies and probabilities of the thing, beſides the great conſent of almoſt all the Church of God, which make it very fit to be entertain'd. There are ſome things which are *piè credibilia, there is piety in the believing them:* and in ſuch caſes it is not enough that there is nothing in Scripture to affirm it; if there be any thing in any other topick, it is to be entertain'd according to the merit of the thing.

51. 5. *A negative argument from Scripture does not conclude in queſtions of fact:* and therefore S. *Hierome* did not argue rightly, *Quanquam excepto Apoſtolo non ſit manifeſtè relatum de aliis Apoſtolis quod Uxores habuerint, & cum de uno ſcriptum ſit ac de cæteris tacitum, intelligere debemus, ſine uxoribus eos fuiſſe, de quibus nihil tale Scriptura ſignificat; The Scripture names onely* Peters *wife, and does not ſay that any of the other Apoſtles were married, therefore we are to conclude that they were not.* For beſides that the allegation is not true, and S. *Paul* intimates that the other Apoſtles as well as *Peter* did lead about a Siſter, a Wife; and that from thence the Fathers did believe them all to have been married except S. *John*, and ſome alſo except S. *Paul*; yet the argument is not good: for it may as well be concluded that S. *Peter* never had a child, or that Chriſt did never write but once when he wrote upon the ground, becauſe the Scripture makes no mention of either.

Lib. 1. contra Jovin.

52. 6. *When a negative argument may be had from Scripture for both the parts of the contradiction, nothing at all can be concluded thence,* but it muſt be wholly argued from other topicks. The Scripture neither ſays that Chriſt did ever laugh, nor it does not ſay that he did never laugh; therefore either of the contradicting parts may be equally inferr'd, that is truly neither. And indeed this is of it ſelf a demonſtration that in matters of fact and matters not neceſſary a negative argument from Scripture is of no uſe at all.

53. 7. *But when the queſtion is of lawful or unlawful, then it is valid.* If it be not in Scripture forbidden directly or by conſequent then it is lawful; it is not by God forbidden at all. And on the other ſide, if it be not there commanded it is not neceſſary. *Lucentius* thus argued in the Council of *Chalcedon*, *Dioſcorus Synodum anſus eſt facere ſine authoritate ſedis Apoſtolicæ, quod nunquam licuit, nunquam factum eſt.* That it was never done, proves not but it may be done; but if it was never lawful to be done, then it was forbidden; for whatſoever is not forbidden is not unlawful: but if it was not in Scripture forbidden, then *aliquando licuit*, it once was lawful, and therefore is always ſo, if we ſpeak of the Divine Law; and if *Lucentius* ſpeaks of that, he ought to have conſidered it in the inſtance: but I ſuppoſe he means it of cuſtome, or the Eccleſiaſtical Law; and therefore I meddle not with the thing, onely I obſerve the method of his arguing.

54. 8. *An argument from the diſcourſe of one ſingle perſon omitting to affirm or deny a thing relating to that of which he did diſcourſe, is no competent argument to prove that the thing it ſelf omitted was not true:* and therefore *Ruffinus* had but a weak argument againſt the traduction of the ſoul when he

Lib. de fide, n. 28.

he argued thus, *Si anima quoque esset ex anima secundam illorum vanas opiniones, nunquam profecto hoc Adam præterisset. Nam sicut os ex ossibus meis, & caro de carne mea dicebat, sic etiam anima ex anima mea dicere potuisset. Sed tantum hoc dixit quod sibi videlicet sciebat ablatum.* *Adam.* seeing his wife, said, this is bone of my bone and flesh of my flesh, for he knew what was taken from him; but he could have said, soul of my soul, if the soul had been deriv'd from him. This I say is no good argument, unless every one must be supposed when he says any thing to say all that is true, and all that he knows: so that *Ruffinus* in this particular defended a good cause with a broken sword.

55. 9. *But if that which is omitted in the discourse be pertinent and material to the inquiry, then it is a very good probability that that is not true that is not affirmed.* When the Jews asked our Blessed Saviour, Why doe the disciples of *John* and of the Pharisees fast often, but thy disciples fast not? he gave an answer that related to the present state of things and circumstances at that time, and said nothing of their not fasting in the time of the Gospel: from which silence we may well conclude that there is nothing in the Religion disobliging Christs disciples from fasting; if it had, it is very likely it would have been then expressed when there was so apt an occasion, and the answer had been imperfect without it. S. *Hieromes* was also very good, but not so certain as the other, against the tale of *Leo* baptized after his death, and the periods of *Paul* and *Tecla*; *Igitur periodos Pauli & Teclæ & totam baptizati Leonis fabulam inter apocryphas Scripturas computamus. Quale enim est ut individuus comes Apostoli inter cæteras ejus res hoc solùm ignoraverit?* It is not likely that S. *Luke*, who continually attended on S. *Paul*, observed all his actions, remark'd his miracles, describ'd his story, should omit things so strange, so considerable, if they had been true.

Lib. de Script. Eccles. in Luca

56. The reason of these things is, *Every thing is to be suspected false that does not derive from that fountain whence men justly expect it, and from whence it ought to flow.* If you speak of any thing that relates to God, you must look for it there where God hath manifested himself; that is, in the Scriptures. If you speak of any humane act or ordinance, or story and matter of fact, you must look for it in its own spring and original, or goe the neareſt to it you can. And thus the Bishops at the conference had with the *Acephali*, Hereticks who had Churches without Bishops, refused their allegations of the authority of *Dionysius the Areopagite*, upon this account, *Illa testimonia quæ vos Dionysii Areopagitæ dicitis, unde potestis ostendere vera esse sicut suspicamini? Si enim ejus essent, non potuissent latere Beatum Cyrillum. Quid autem de B. Cyrillo dico, quando & B. Athanasius, si pro certo sciisset ejus fuisse, ante omnia in Niceno Concilio de Consubstantiali Trinitate eadem testimonia protulisset adversus Arii diversæ substantiæ blasphemias? Si autem nullus ex Antiquis recordatus est ea, unde nunc potestis ostendere quia illius sunt, nescio.* If neither S. *Cyril*, nor S. *Athanasius*, who were so diligent to inquire, so skilful in knowing, so concern'd that these Books should be the works of S. *Dionys*, did yet know nothing of them, and if amongst the Ancients they were not known, for you Moderns now to tell of Antiquity, what by them who then liv'd was not told, is a folly that can never gain credit amongst reasonable persons. Let every fruit proceed from its own root. We cannot say, because a thing is not in Scripture,

C. Pli. An. Dom. 532.

therefore it is not at all; but therefore it is nothing of Divine Religion. So it is alſo in things relating to the Ancient Church; from thence onely can we derive any notice of their doctrine and of their practices. For if an article prevail'd in S. *Auſtins* time, it was no argument that therefore it was believ'd in S. *Cyprians* time: but a negative argument from any Age ought to prevail in reference to that Age; and if there be in it nothing of Antiquity, no argument of the Moderns can prove it to be Ancient: and *Baronius* ſaid well, *Quod à recentiori Authore de rebus antiquis ſine alicujus vetuſtioris authoritate profertur, contemnitur*, *What the Moderns ſay of the Ancients without warranty from themſelves is to be deſpiſed.* One thing one-
Commonit. cap. 1. ly I am to adde to this out of *Vincentius Lirinenſis*, *Quicquid vero ab Antiquo deinceps Uno præter omnes, vel contra omnes Sanctos novum & inauditum ſubinduci ſenſerit, id non ad religionem ſed ad tentationem potius intelligat pertinere*, If one of the Fathers ſay a thing, and the others ſay it not, but ſpeak diverſly or contrarily, that pertains not to Religion, but to temptation. I doubt not but he intended it againſt S. *Auſtin*, who ſpake things in the matter of Predeſtination, and the damnation of infants, and other appendant queſtions againſt the ſenſe of all the Fathers that were before him; one (it may be) or ſcarce one being excepted. And to the
Lib. 4 cap. 2. contr. Marcion. ſame purpoſe *Tertullian* argued againſt *Marcion* concerning a pretended Goſpel of S. *Paul*, *Etſi ſub ipſius Pauli nomine Evangelium Marcion intuliſſet, non ſufficeret ad fidem ſingularitas inſtrumenti deſtituta patrocinio Anteceſſorum.* If you cannot bring teſtimony from the Fathers and Ancient Records, you muſt not receive it; one alone is not to be truſted. He that affirms muſt prove; to him that denies, a negative argument is ſufficient. For to a mans belief a poſitive cauſe is required, but for his not believing, it is ſufficient that he hath no cauſe. Thus S. *Hierome*
Dial. adv. Luciferianos. argues well againſt the rebaptizing of converted Hereticks, *Ad eos venio hæreticos qui Evangelia laniaverunt .... quorum plurimi vivente adhuc Johanne Apoſtolo eruperunt, & tamen nullum eorum legimus rebaptizatum.* Of all the Hereticks which appeared in S. *Johns* time, we never read of any that was rebaptiz'd: and therefore it is to be preſumed they were not; for a thing ſo conſiderable and ſo notorious, in all reaſon would have given ſome ſigns, and left ſome indications of it. But then it is to be obſerved,

57. 10. *A negative argument muſt not be μέσον μερικὸν a partial or a broken piece of a medium.* You cannot argue rightly thus, S. *John* in his Goſpel ſpeaks nothing of the Sacrament of the Lords Supper, therefore that Sacrament is no part of the doctrine of ſalvation. For three Evangeliſts had done it before him, and therefore he did not; and a negative argument onely from one Goſpel cannot conclude rightly concerning any article of the Religion. And this is very evident in matters of fact alſo. For if it be argued thus, We doe not finde in Scripture nor in the days of the Apoſtles any infant baptized; therefore we conclude there was none. This is *μέσον μερικὸν*. It is true, if there were no way elſe to finde it but the practice of the Apoſtles, the negative argument had been very good; but we derive it from the force of Chriſts words of inſtitution, and of his diſcourſe with *Nicodemus*, and the analogy of Circumciſion, and the practice of the Jews in baptizing their children, and many proprieties of Scripture, and the effect of the Sacrament, and the neceſſities of regeneration. S. *Irenæus* his negative argument was good; *Quod neque Prophetæ*
Lib. 1. c. 1. *prædicaverunt, neque Dominus docuit, neque Apoſtoli tradiderunt*, &c. If neither

neither *Moses* nor the Prophets, Christ nor his Apostles have taught it, it is not to be received as any part of Christian doctrine. For this negative is integral & perfect. But S. *Cyril* of *Alexandria* disputed also well with his negative argument from Antiquity, *Etenim nomen hoc Θεοτόκος nullus unquam Ecclesiasticorum Doctorum repudiavit: qui autem illo subinde usi sunt, & multi reperiuntur, & maximè celebres.* Many famous Doctors used this word, calling the Virgin *Mary the Parent of God*; and none ever refused it; therefore it may safely be used. If the negative argument from Scripture or Antiquity respectively can run thus, It was not condemn'd in Scripture or Antiquity, but it was used, therefore it is good; the argument concludes rightly in relation to Scripture, and probably in relation to Antiquity. But if it be said onely, *the Scripture condemnes it not*, but neither does it approve it, then it cannot be concluded to be *laudable*, but onely *not criminal*. But if it be said of Antiquity, it was neither condemn'd nor us'd, it cannot be inferr'd from thence that it is either laudable or innocent. The reason is, because Scripture is the measure of lawful and unlawful, but the writings of the Doctors are not; and these may be deficient, though that be full.

Prima parte Concil. Ephes. cap. 25

58. 11. *In the mysteries of Religion, and in things concerning God, a negative argument from Scripture ought to prevail both upon our faith and upon our inquiries, upon our belief and upon our modesty.* For as S. *Austin* said well, *De Deo etiam vera loqui periculosissimum, It is hard to talk many things of God:* we had need have good warranty for what we say; and therefore it is very fit we speak Scripture in the discourses of God. And thus S. *Austin* argued, *Ideo nusquam scriptum est quod Deus Pater major sit Spiritu Sancto, vel Spiritus Sanctus sit minor Deo Patre: quia non sic assumpta est Creatura, in qua appareret Spiritus Sanctus, sicut assumptus est Filius hominis.* Since it is no where written that the Father is greater then the Spirit, we ought not to say he is. But if it be objected that neither does the Scripture say, that he is not greater, it does not say that they are equal; and therefore it will be hard to use a negative argument in such cases; and how shall we know which part of the negative to follow? I answer, it is very true according to the sixth proposition num. 52. but then in this case we must inquire for other words of Scripture by which we may be directed, and proceed accordingly, or inquire into the analogy of faith, or the measures of piety: but if there be nothing to determine to any side of the negative, we must say nothing; and if there be, yet we must say but little, because the notice is not great.

Lib. 2. de Trinit. cap. 6.

59. 12. Lastly, *In matters of envy and burden, a Negative argument even in matter of fact ought to prevail, unless the contrary be proved by some other competent Topick.* That the Clergy ought not to marry is no where affirmed in Scripture, and therefore it is permitted; and because it is agreeable to Nature, and the Lawes of all republicks, their marriage is also holy and pleasing to God. A burden must be directly imposed; a man must not be frighted or scar'd into it. When our Blessed Saviour reproved the Pharisees for imposing heavy burdens, such which God impos'd not, he taught us the value of this argument; *ubi scriptum est?* shew us where it is written that this is displeasing to God: if it be no where forbidden, *præsumitur pro libertate*; all men are as free as they were born. How this can be altered by the lawes of man will be afterwards consider'd. In the

mean time God hath left us under no more reſtraints then are deſcrib'd in Scripture. This argument S. *Chryſoſtome* urges againſt the neceſſitie of corporal afflictions to a contrite weeping penitent. *Lacrymas Petri lego, Satisfactionem non lego.* I read that S. *Peter* wept, I doe not read that he impos'd penances on himſelf. The argument were good from this place, if the caſe be not ſpecial, or if it be not altered by ſome other conſideration. This is alſo to be extended to ſuch negative arguments as are taken from matter of fact in accuſations, and criminal proceedings: not that it can of it ſelf be great enough to prevail, but that the caſe is ſo favourable, that every little thing ought to be ſtrong enough. Thus S. *Athanaſius* detended his Deceſſor *Dionyſius: Et prius eorum Authorem Dionyſium per hoc voluit eſſe purgatum, atque ab Arianorum crimine alienum, quod ipſe non ſicut Arius cum viveret de impietate fuerat accuſatus, aut de Epiſcopatu dejectus, neque velut hæreſim defendens de Eccleſia, ſicut ille, deceſſerit, ſed in ejus permanſerit unitate. Dionyſius was not accuſed while he was alive, he was not thrown from his Biſhoprick, he did not depart from the Church, but remain'd in her Communion; and therefore he was no Arian.* But arguments of this nature, when the *medium* is ſo limited, and the inſtance ſo particular, have their force onely by accident. For this and the like Negatives are good arguments when they are the beſt light in the queſtion, that is, when nothing greater can be ſaid againſt them, or when men are eaſy and willing to be perſwaded; as in the queſtions of burden and trouble all men ought.

Apud Facundum lib. 10. cap. 5

III. Queſtion.

60. *Whether there may be any new articles of Faith*: or *that the Creed of the Church may ſo increaſe that what is ſufficient to ſalvation in one age, cannot ſerve in another.*

61. If this Queſtion were to be determin'd by witneſſes, it were very eaſy to produce many worthy ones. *Theodorus* the Bp. of *Rome* in his Synodical Epiſtle to *Paul* the *Patriarch* of *Conſtantinople* thus concludes againſt the *Monothelites*, *Sufficit nobis fides quam ſancti Apoſtoli prædicaverunt, Concilia firmaverunt, & Patres conſignaverunt, That faith which the Apoſtles preach'd, which the Councils have confirm'd, which the Fathers have conſign'd, that faith is ſufficient for us:* Therefore nothing new can be ſuperinduc'd. After the Apoſtles had done preaching, the Faith was ful and intire. It was ſo long before they died; but after their death the inſtruments were ſeal'd and ratified, and there could be nothing put to them, but our obedience and conſent. And therefore *Victor* Bp. of *Carthage* in his Synodical Epiſtle to *Theodorus* gives caution againſt any thing that is new. *Veſtrum eſt itaque, Frater Sanctiſſime, Canonica diſcretione ſolita contrariis Catholicæ fidei obviare, nec permittere noviter dici quod patrum venerabilium authoritas omnino non cenſuit. You muſt not permit any thing to be newly ſaid, which the authority of the venerable Fathers did not think fit.* If therefore the Fathers did not ſay it was neceſſary to believe any other articles then what they put into their confeſſions of Faith; he that ſayes otherwiſe now is not to be ſuffer'd. Excellent therefore is the Counſel of S. *Cyprian*, "As it happens when the pipes of an aquæduct are "broken or cut off, the water cannot run, but mend them and reſtore the "water

Epiſt. 74. ad Pompeium.

" water to it's course, and the whole city shall be refreshed from the foun-
" tains head: *Quod & nunc facere oportet Dei sacerdotes, præcepta Divina servantes, ut si in aliquo nutaverit & vacillaverit veritas, ad originem Dominicam & Evangelicam & Apostolicam traditionem revertamur, & inde surgat actus nostri ratio, unde & ordo & origo surrexit. So must Gods Priests doe, keeping the Divine Commandements: if the truth be weakned or faile in any thing, let a recourse be made to the Original, to the fountain of Christ and his Apostles, to what hath been delivered in the Gospel; that thither our faith may return from whence it did arise.*

62. From the simplicity, truth and ingenuity of this discourse it will plainly follow, that what was the faith at first, the same it is now and no other, *Sicut erat in principio* &c. *As it was in the beginning*, so it is now, and so it shall be for ever. For to what purpose can it be advis'd that in all questions of faith or new springs of error we should returne to the fountains of our Saviour and the first emanations of the Apostles, but because no Divine truth is warrantable but what they taught, no necessity is to be pretended but what they impos'd? If it was their faith, it is and must be ours; but ours it ought not to be, if it was not theirs.

63. Now concerning this, there are very material considerations. 1. Whatsoever the Apostles taught we must equally believe, if we equally know it: but yet all that they taught is not equally necessary to be taught; but onely so much as upon the knowledge of which good life is superstructed and our hopes of heaven depend. Whatsoever is in the Scripture is alike true, but whatsoever is there is not alike necessary, nor alike useful, nor alike easy to be understood. But whatsoever by reading or hearing or any other instrument we come to learn to be the truth of God, that we must believe: because no man disbelieves any such thing, but he disownes God. But here the question is not what we must believe when we know it to be the word of God, for that is every thing; but how much we are bound to know, what must be taught to all Christians, how much their memory and their hearts must be charged withall. For the Faith of a Christian is not made up of every true proposition; but of those things which are the foundation of our obedience to God in Jesus Christ, and the endearment of our duty, and the stabiliment of our hope. Faith, Hope, and Charity, are the *fundamentum, paries & tectum, the foundation, the walls and the roofe* of our building: Now this foundation is that necessary belief, without which nothing could subsist in our Religion.

64. 2. This foundation was by Christ and his Apostles laid sure, but at first it was made but of a just latitude and eveness with the intended building. It was a little enlarged and paraphras'd by the Apostles and Apostolical men in their dayes; the Faith of Christians was the most easy and plain, the most simple and wise thing in the world: it was wholly an art of living well, and believing in God through Jesus Christ. And what *Seneca* said of the wisdome of the old men in infant *Rome*, is very true of the *Aborigenes* in Christianity, in the first spring of our Religion; *Antiqua sapientia nihil aliud quam facienda & vitanda præcepit: & tum longè meliores erant viri: postquam docti prodierunt, desunt boni. The Ancient and primitive wisdome did onely command vertue, and prohibite vice; and then men liv'd good lives: but when they became more learned they became* Senec. ep. 95.

leſs vertuous. Simplex erat ex ſimplici cauſa valetudo: multos morbos multa fercula fecerunt. The old world eat a ſimple and a natural diet, and they had a ſimple and a natural religion: but when variety of diſhes were ſet upon the table, variety of diſeaſes entred together with them. Now in what inſtance the ſimplicity of a Chriſtian was at firſt exerciſed we find in S. *Irenæus. Melius itaque eſt nihil omnino ſcientem quempiam, ne quidem unam cauſam cujuſlibet eorum quæ facta ſunt, cur factum, & credere Deo, & perſeverare in ejus dilectione quæ hominem vivificat, nec aliud inquirere ad ſcientiam niſi Jeſum Chriſtum filium Dei qui pro nobis crucifixus eſt, quam per quæſtionum ſubtilitates & multiloquium in impietatem cadere. It is therefore better for a man to know abſolutely nothing of the cauſes of things why any thing was done,* [*and to believe in God, and to perſevere in his love that makes a man to live, and to inquire after no knowledg but to know Jeſus Chriſt the Son of God who was crucified for us*] *then by ſubtile queſtions and multitude of words to fall into impiety.*

Lib. 2. cap. 47.

65. 3. If we obſerve the Creeds or Symbols of belief that are in the New Teſtament, we ſhall find them very ſhort. *Lord, I believe that thou art the Son of God who was to come into the world.* That was Martha's Creed. *Thou art Chriſt the Son of the living God.* That was *Peters* Creed. *We know and believe that thou art Chriſt the Son of the living God.* That was the Creed of all the Apoſtles. *This is life eternal, that they know thee the onely true God, and whom thou haſt ſent, Jeſus Chriſt.* That was the Creed which our Bleſſed Lord himſelf propounded. And again, *I am the reſurrection and the life: he that believeth in me, yea though he were dead, yet ſhall he live, and he that liveth and believeth in me ſhall not die for ever.* That was the Catechiſme that Chriſt made for *Martha*, and queſtion'd her upon the article, *Believeſt thou this?* And this belief was the end of the Goſpel, and in ſufficient perfect order to eternal life. For ſo S. *John, Theſe things are written, that ye might believe that Jeſus is the Chriſt, the Son of God, and that believing ye might have life through his Name. For this is the word of Faith which we preach, namely, if you with the mouth confeſs Jeſus to be the Lord, and believe in your heart that God raiſed him from the dead, you ſhall be ſaved.* That's the Chriſtians Creed. *For I have reſolved to know nothing amongſt you, but Jeſus Chriſt and him crucified; that in us ye may learn not to be wiſe above that which is written, that ye may not be puffed up one for another, one againſt another.* That was S. *Paul's* Creed, and that which he recommends to the Church of *Rome*, to prevent factions and Pride and Schiſme. The ſame courſe he takes with the Corinthian Church; *I make known unto you the Goſpel which I preached unto you, which ye have received, in which ye ſtand, and by which ye are ſav'd, if ye hold what I deliver'd to you*, &c. Well; what is that Goſpel by which they ſhould be ſav'd? It was but this, *That Chriſt died for our ſins, that he was buried, that he roſe again the third day*, &c. So that the ſumme is this, The *Gentiles Creed* or the *Creed* in the natural law is that which S. *Paul* ſets down in the Epiſtle to the Hebrews, *Deum eſſe, & eſſe Remuneratorem*, that *God is, and that God is a rewarder.* Adde to this the Chriſtian Creed, that Jeſus is the Lord, that he is the Chriſt of God, that he died for our ſins, that he roſe again from the dead; and there is no queſtion but he that believes this heartily, and confeſſes it conſtantly, and lives accordingly, ſhall be ſaved: we cannot be deceived; it is ſo plainly, ſo certainly affirm'd in Scripture, that there is no place left for hæſitation. *For this is his præcept, that we believe in the*

John 11. 26, 27.
Matth. 16. 16.
John 6. 69.
Joh. 17. 3
Joh. 20. 31.
Rom. 10. 8, 9.
1 Cor. 2. 2.
1 Cor. 15. 1.
1 Joh. 3. 23.

Name

Name of his Son Jesus Christ, and that we love one another. So S. *John.* This is his precept. True, and so there are many more: but why is this so signally remark'd, but because this is the fundamental precept, that upon which all the rest are superstructed? that is the foundation of faith and manners, & he that keeps this Commandement shall never perish. *For other foundation can no man lay then this which is laid, which is Jesus Christ. But if any man shall build upon this foundation, gold, silver, pretious stones, wood, hay, stubble, Every mans work shall be made manifest; for that day shall declare it, because it is revealed in fire; and every ones work the fire shall prove what it is. If any mans work which he hath superstructed shall remain, he shall receive a reward. But if any mans work shall be burned, he shall receive loss, yet himself shall be sav'd, but so as by fire.* Nothing more plain, then that the believing in Jesus Christ is that fundamental article upon which every other proposition is but a superstructure, but it self alone with a good life is sufficient to Salvation. All other things are advantage or disadvantage according as they happen; but Salvation depends not upon them. *For every Spirit which confesseth Jesus Christ to have come in the flesh is of God, and whosoever shall confess that Jesus is the Son of God, God abideth in him, and he in God:* and, *Every one that believeth that Jesus is Christ is born of God:* and, *who is he that overcometh the world, but he that believeth that Jesus is the Son of God?*

1 Cor. 3 11, 12, 13, 14, 15. 1 Joh. 4. 2. 1 Joh. 5. 1.

66. In proportion to this *measure of faith*, the Apostles preach'd *the doctrine of faith.* S. *Peters* first Sermon was, that *Jesus is Christ, that he was crucified, and rose again from the dead:* and they that believed this were presently baptized. His second Sermon was the same; and then also he baptized Proselytes into that confession. And when the Eunuch had confessed that Jesus Christ is the Son of God, *Philip* presently baptized him. And it is observable, that when the Eunuch had desir'd baptisme, S. *Philip* told him, *He might* if he did believe: *and was*, when he made that confession; intimating that this is the Christian Faith, which is the foundation of all his hope, and the condition of his baptisme, and therefore sufficient for his Salvation. For indeed that was the summe of all that *Philip* preached; for it is said of him, that *he preached things concerning the Kingdome of God, and the name of Jesus Christ.* And this was the summe of all that S. *Paul* preached in the Synagogues and assemblies of the people, this he disputed for, this he prov'd laboriously; that Jesus is Christ, that he is the Son of God, that he did, that he ought to suffer, and rise again the third day: and this was all that new doctrine for which the Athenians and other Greeks wondred at him, and he seem'd to them to be a setter forth of strange gods, *because he preached Jesus and the resurrection.* This was it into which the Jaylor and all his house were baptized; this is it which was propounded to him as the onely and sufficient means of Salvation; *Believe in the Lord Jesus, and thou shalt be saved and all thine house.* This thing was illustrated sometimes with other glorious things still promoting the faith and honour of Jesus, as that he ascended into heaven and shall be the Judge of all the world. But this was the whole faith; τὰ περὶ τῆς βασιλείας τοῦ θεοῦ, καὶ περὶ ὀνόματος τοῦ Ἰησοῦ Χριστοῦ, *the things which concerned the Kingdome of God, and the name of Jesus Christ*, was the large circumference of the Christian faith. That is, such articles which represent God to be our Lord, and Jesus Christ to be his Son, the Saviour of the world, that he died for us, and rose again and was glorified and reigns over all the

Acts 2. 24. & 3. 15. Acts 8. 12, 37, 38. Acts 9. 20. 17. 2. Acts 16. 31.

world, and ſhall be our Judge, and in the reſurrection ſhall give us according to our works; that in his name onely we ſhall be ſaved, that is, by faith and obedience in him, by the mercies of God revealed to the world in Jeſus Chriſt: this is all which the Scripture calls neceſſary: this is that faith alone into which all the Church was baptized: which faith, when it was made alive by charity, was and is the faith by which *the Juſt ſhall live.*

67. This excellent ſummary of Faith we find alſo but with a very little Paraphraſe propounded as ſufficient by *S. Polycarp* in that excellent Epiſtle of his to the *Philippians*, which *S. Irenæus* ſo much commends, *Fidei veſtræ firmitas à principio uſque nunc permanet, & ſanctificatur in Domino Jeſu Chriſto, This is the firmneſs of your faith from the beginning, which remains unto this day, and is ſanctified in Jeſus Chriſt.* This S. *Ignatius* calls *ple-*
Ad Magneſ. *nam de Chriſto cognitionem, a full knowledge concerning Chriſt:* then he reckons the generation of the Son from God the Father before all worlds, his being born of the Virgin *Mary*, his holy life, his working miracles, his preaching one God even the Father, his paſſion and crucifixion, his death and reſurrection, his aſcenſion and ſitting at the right hand of God, and that in the end of the world he ſhall riſe again to judge the quick and the dead, and to give to every one according to their works. When he hath recited this, he addes, *Hæc qui planè cognorit & crediderit, beatus eſt, He that plainly knowes theſe things and believes them, is bleſſed.* And in another
Ad Philip. Epiſtle, after the recitation of ſuch another Creed, he addes, *He that be-*
Coll. cum Tryph. *lieves theſe things, is bleſſed that ever he was born. Juſtin Martyr* affirmes expreſsly, that if any man ſhould even then live according to the law of *Moſes* (I ſuppoſe he means the law of the ten Commandements) ſo that he believes in Jeſus Chriſt crucified, and acknowledge him for the Chriſt of God, to whom is given the judgment of all the world, he alſo ſhall poſſeſs the Eternal Kingdome.

68. The ſame Creed in more words but no more articles is recited by S. *Irenæus* in his ſecond and third chapters of his firſt book, ſaying that *the Church throughout all the world being planted by the Apoſtles to the ends of the Earth, and by their Diſciples, hath received this faith. He of all the Prelates that is moſt powerful in ſpeech cannot ſay any thing elſe: for no man is above his Maſter, and he that is weak in ſpeaking cannot ſay leſs. For ſince the faith is one and the ſame, he that ſpeaks much cannot ſay more, and he that ſpeaks little muſt not ſay leſs.* And afterwards ſpeaking of ſome barbarous
Lib. 3. cap. 4. nations that had not the Scriptures, yet having this faith, which he there ſhortly recites, beginning with belief in God the Father, the maker of the world, and in Jeſus Chriſt, repeating the uſual articles of his being born of the Virgin *Mary*, his being the Son of God, his reconciling God and man, his ſuffering under *Pontius Pilate*, his riſing again and being received into glory, and his laſt judgment: he addes, *Hanc fidem qui ſine literis crediderunt quantum ad ſermonem noſtrum Barbari ſunt, quantum autem ad ſententiam & conſuetudinem & converſationem propter fidem, ſapientiſſimi ſunt & placent Deo, converſantes in omni juſtitia, caſtitate & ſapientia, They who believe this faith are moſt wiſe in their ſentence and cuſtome and converſation through faith, and they pleaſe God, living in all juſtice, chaſtity and wiſdome.*

Here

69. Here were almost two Ages spent by this time, in which the most pestilent Heresies that ever did trouble the Church did arise, in which some of the Questions were talk'd of and disputed, and which afterwards by the zeal of some that overvalued their own forms of speaking pass'd into a faction; and yet in all this time, and during all that necessity, there was no more added to the Christian Creed, no more articles for the condemnation of any new heresy: whatsoever was against this was against the faith; but any thing else they reprov'd if it were false, but did not put any more into their Creed. And indeed they ought not. *Regula quidem fidei una omnino est, sola immobilis & irreformabilis, Credendi scil. in Unum Deum,* &c. saith *Tertullian*; *The Rule of faith is altogether One, and immovable and unalterable. This law of faith remaining, other things may be inlarged according as the grace of God multiplies upon us.* But for the faith it self here consign'd and summ'd up, the Epistle of *Celestine* to *Nestorius* is very affirmative and clear, ἡ πίστις ἡ παραδοθεῖσα παρὰ τῶν Ἀποστόλων, ἔστι προσθήκῃ, ἔστι μειώσιν ἀπαιτεῖ, *The faith or Creed delivered by the Apostles requires neither addition nor defalcation. Neque enim ulla extitit hæresis quæ non hoc Symbolo damnari potuit, There was never any heresie but this Creed was sufficient for its condemnation*, said the Catechism of the Archbishop of *Triers*. De veland. Virgin. cap. 1

70. This faith passing into all the world was preserved with great sacredness and great simplicity, no Church varying from it at all: some indeed put some great things into it which were appendages to the former; but the fullest and the most perfect were the Creeds of *Jerusalem* and *Rome*, that is, the same which the Greek and Latine Church use at this day. The first and the most simple forms were sufficient; but these fuller forms being compiled by the Apostles themselves or Apostolical men, and that from the words of Scripture, made no great alteration: the first were not too little, and these were not too much. The first was the thing it self, which was of a declar'd sufficiency; but when the Apostles were to frame an instrument of Confession, τύπον διδαχῆς *a form of doctrine* by way of art and method, they put in all that *they directed* by the Holy Spirit of God knew to contain the whole faith of a Christian. Now of this form so described, so delivered, so received, the Fathers of the Church affirm that it is intire and sufficient, and nothing is to be added to it. *Ergo & cunctis credentibus quæ continentur in præfato symbolo salus animarum & vita perpetua bonis actibus præparatur*, said the Author of the Epistle to S. *James* attributed to S. *Clement*, *To all that believe those things contained in the foresaid Symbol or Creed, and doe good deeds, salvation of their souls and eternal life is prepared.*

71. And therefore this summary of faith was called, τύπος διδαχῆς, ὁ κανών, ὑποτύπωσις ὑγιαινόντων λόγων, ἀναλογία πίστεως, γαλακτοδὴς εἰσαγωγή, παράδοσις, στοιχεῖα τ ἀρχῆς τῶν λογίων τοῦ Θεοῦ, παράδοθεῖσα πίστις, *Regula fidei, depositum, breve Evangelium*, *The form* or *exemplar of doctrine*, *the Canon, a description of sound words, the proportion* or *measure of Faith, the milky way*, or *the Introduction of Novices, the Elements of the beginning of the Oracles of God, the Repository of faith, the faith that was delivered to the Saints, the Rule of Faith, that which was intrusted to the Church, A short Gospel.* These and divers other appellatives of the Creed were used by the ancient Doctors, most of them taken out of Scripture. For what the Scriptures did affirm of the whole Faith, that the Fathers did apply to this Creed,

Creed, as believing it to contain all that was neceſſary. And as a grain of Muſtard-ſeed in little contains in it many branches, ſo alſo this faith in a few words involves all the knowledge [the neceſſary knowledge] of the Old and New Teſtament, ſaith S. *Cyril*; and therefore he calls this Creed, *Traditionem Sanctæ & Apoſtolicæ fidei, The Tradition of the Holy and Apoſtolick Faith. Cordis ſignaculum, & noſtræ militiæ Sacramentum*, ſo S. *Ambroſe* calls it, *The ſeal of our heart, and the Sacrament of our Warfare.* S. *Hierome* yet more fully, *The Symbol of our faith and of our hope, which being delivered by the Apoſtles is not written with paper and ink, but in the fleſhy tables of our hearts, after the confeſſion of the Trinity and Unity of the Church. Omne Chriſtiani dogmatis Sacramentum carnis reſurrectione concluditur; The whole Sacrament of the Chriſtian doctrine is concluded with the reſurrection of the fleſh* to eternal life. *Norma futuræ prædicationis*; ſo *Ruffinus* calls it; *the rule of future preachings* appointed by the Apoſtles; *& hanc credentibus eſſe regulam dandam ſtatuunt*, they appoint this to be given as a Rule to all believers: and again, This Creed was *the token by which he ſhould be known who did preach Chriſt truly according to the Rules of the Apoſtles*; the indication of their Faith and Unanimity. *Comprehenſio fidei noſtræ atque perfectio*, ſo S. *Auſtin* calls it. *Virtus eſt Sacramenti, illuminatio animæ, plenitudo credentium, The illumination of the ſoul, the fulneſs of believers, the comprehenſion and the perfection of our faith. By this the knot of infidelity is untied, by this the gate of life is opened, by this the glory of our confeſſion is manifeſted.* It is *teſſera & ſignaculum quo inter Fideles perfidóſque ſecernitur*, ſaid *Maximus Taurinenſis. Baſis quædam, & fundamentum immotum & inconcuſſum per univerſum orbem jactum:* So S. *Cyril* of *Alexandria*. It is a badge and cogniſance to diſtinguiſh the faithful from the perfidious; an immovable foundation laid for all the world; a Divine or *Celeſtial armour, that all the opinions of Hereticks may be cut off with this ſword alone*; So S. *Leo* Biſhop of *Rome*. I could adde very many more to this purpoſe; who pleaſe to require more, may ſee enough in *Lucifer Calaritanus l. 2. ad Conſtantium, Paulinus* Biſhop of *Nola ep. 1. ad Afrum, S. Auſtin* his Book *de Symbolo ad Catechumenos l. 1. c. 1.* in *Ruffinus* his excellent expoſition of the Creed, *Eucherius* Biſhop of *Lions* in his firſt Homily upon the Creed, *Petrus Chryſologus* in his 62 Homily, *Iſidor* of *Sivil l. 6. originum c. 9.* and in his Offices Eccleſiaſtical *l. 1. c. 26. de Dominica palmarum*, *Rabanus Maurus l. 2. de inſtit. Clericorum cap. 56.* the oration of *Bernard Zane* in the firſt Seſſion of the Council of *Lateran*, in the diſcourſe of the Greeks at the Council of *Florence*, *Seſſ. 10. Caſſianus de incarnatione Domini, Euſebius Gallicanus* in his Homilies on the Creed publiſhed by *Gaigneus* Chancellor of *Paris*, in *Venantius Fortunatus* his explication of it; and he may if he pleaſe adde the two Homilies which S. *Chryſoſtome* made upon the Creed, and the great Catechetical oration of S. *Gregory Nyſſen.*

72. Now to what purpoſe is all this? The Apoſtles compil'd this form of words, all Churches received them, all Catechumens were baptized into this faith, in the Roman Church they recited it publickly before their immerſion, to this ſalvation was promiſed; this was the Sacrament of the Chriſtian faith, the fulneſs of believers, the characteriſtick of Chriſtians, the ſign of the Orthodox, the ſword of all hereſies and their ſufficient reproof, the unity of belief, ſufficient, full, immovable, unalterable; and it is that and that alone in which all the Churches of the world doe at this day agree. It

73. It is true, that the Church of God did explicate two of the articles of this Creed, that of the second, and that of the third Person of the Holy Trinity; the one at *Nice*, the other at *Constantinople*; one against *Arius*, the other against *Macedonius*; they did explicate, I say, but they added no new matter but what they suppos'd contain'd in the Apostolical Creed. And indeed the thing was very well done, if it had not been made an ill example; they had reason for what they did, and were so near the Ages Apostolical that the explication was more likely to be agreeable to the Sermons Apostolical: But afterwards the case was alter'd, and that example was made use of to explicate the same Creed, till by explicating the old they have inserted new Articles.

74. But all the while, it is consented to on all hands, that this onely faith is sufficient. What can certainly follow from these infallible Articles is as certainly true as the Articles themselves, but yet not so to be impos'd, because it is not certain that this or this explication is right, that this consequent is well deduc'd; or if it be certain to you, it is not so to me; and besides it is more an instrument of schism then of peace, it can divide more then it can instruct, and it is plainly a recession from the simplicity of the Christian faith, by which simplicity both the learned and the ignorant are the more safe. *Turbam non intelligendi vivacitas, sed credendi simplicitas tutissimam facit:* and when once we come to have the pure streams pass through the limbecks of humane wit, where interest, and fancy, and error, and ignorance, and passion are intermingled, nothing can be so certain, though some things may be as true; and therefore here the Church does rest, here she finds peace; her faith is simple, easy and intelligible, free from temptation, and free from intrigues; it is warranted by Scripture, compos'd and delivered by the Apostles, entertain'd by all the world: In these they doe agree, but in nothing else, but this and in their fountain, the plain words of Scripture.

Augustin. contra epist. Fundam. c. 4.

75. For all the rest, it is abundant to all excellent purposes. It can instruct the wise, and furnish the Guides of Souls with treasures of knowledge, and imploy the tongues and pens of the learned; it can cause us to wonder at the immensity of the Divine wisdome, and the abyss of revelation: it is an excellent opportunity for the exercise of mutual charity in instructing and in forbearing one another, and of humility and patience and prayer to God to help our infirmities, and to enlighten us more and more in the knowledge of God. It is the great field of faith where she can enlarge her self; but this is the house of faith where she dwels for ever in this world.

76. So that for any other thing of the Religion it is to be believed so farre as it does appear to be the word of God; and by accidents and circumstances becomes of the family or retinue of faith: but it is not necessary to be believed for it self, unless it be for something else it is not necessary at all. A man may be saved without knowing any thing else, without hearing of any thing, without inquiring after any thing, without believing any thing else, provided that in this faith he live a good life. But because sometimes a man is by the interests of a good life requir'd to know more, to inquire after more, and to learn more, therefore upon the stock of *obedience* more may be necessary; but not upon the account of *faith*. So that

if

if ſome men doe not reade the Scriptures, and ſtudy them, and ſearch into the hidden things of God, they ſin againſt juſtice or charity, but not againſt faith, if they retain all the articles of the Apoſtles Creed: and a man may be extremely to blame if he disbelieve many other things; but it is becauſe upon ſome evil account he disbelieves it, and ſo is guilty of that ſin which is his evil principle, as of pride, ambition, luſt, covetouſneſs, idleneſs, fear or flattery; but a man is not in any ſuch caſe guilty of hereſy. For hereſy being directly oppoſed to faith, and faith being compleated in the Articles of the Chriſtian Creed, it cannot be hereſy unleſs it be a contradicting of one of thoſe Articles in the words or in the ſenſe, in the letter, or in the plain, viſible, certain, and notorious explication of it. In the Apoſtolical Creed all the Chriſtian world is competently inſtructed: in theſe things there is no diſpute; and if they be ſimply believ'd as they are plainly deliver'd, it is the better. But in every thing elſe, every man according to his calling and abilities is to grow as much as he can in knowledge; that is, in edifying and practical knowledge: but in all things of ſpeculation, he that believes what he ſees cauſe for, as well and as wiſely, as heartily and as honeſtly as he can, may be deceived, but cannot be a Heretick, nor hazard his ſalvation. *Salus Eccleſiæ non vertitur in iſtis. In ſimplicitate fides eſt, in fide juſtitia: nec Deus nos ad beatam vitam per difficiles quæſtiones vocat: in expedito & facili nobis eſt æternitas*, ſaid S. *Hilary. Faith is in ſimplicity, and righteouſneſs in faith; neither does God call us to eternal life by hard queſtions. Eternity ſtands ready and eaſily prepar'd.*

Lib. 2. de Trin. in princ.

77. For I conſider, if any thing elſe were neceſſary to be believed unto ſalvation, this ſymbol could abſolutely be of no uſe; but if any thing be added to it and pretended alſo to be neceſſary, it cannot be entertained, unleſs they that adde it and impoſe it be infallible in their judgement, and competent in their authority: they muſt have authority equal to that of Chriſt, and wiſdome equal to that of the Apoſtles. For the Apoſtles in this ſummary of faith, declar'd all that was at that time neceſſary; and if any man elſe makes a new neceſſity he muſt claim Chriſts power, for he onely is our Law-giver: and if any declares a new neceſſity, that is not ſufficient, unleſs he can alſo make it ſo, for declaring it ſuppoſes it to be ſo already; and if it was ſo at firſt, the Apoſtles were to blame not to tell us of it; and if it was not ſo at firſt, who made it ſo afterwards?

78. But it is infinitely neceſſary that for the matter of faith, neceſſary and ſufficient faith, we reſt here and goe no further. For if there can be any new neceſſities, then they may for ever increaſe, and the faith of a Chriſtian ſhall be like the Moon, and no man can be ſure that his faith ſhall not be reproved; and there ſhall be innumerable queſtions about the authority of him that is to adde, of his skil, of his proceeding, of the particular article, of our own duty in inquiring, of our diligence, of our capacity, of the degrees of our care, of the competency of inſtruments, of chuſing our ſide, of judging of queſtions: and he that cannot inquire diligently, and he that cannot judge wiſely, and he that cannot diſcern ſpirits, and he that fears, and he that fears not ſhall all be in danger, and doubt, and ſcruple, and there ſhall be neither peace of minds nor Churches, as we ſee at this day in the ſad diviſions of Chriſtendome; and every man almoſt damnes all but his own ſect; and no man can tell who is in the right. Men diſpute well on both ſides; and juſt and good and wiſe men are oppos'd to one another;

ther; and every man seems confident, but few men have reason; and there is no rest, and there can be none, but in this simplicity of belief which the Apostles recommended to all the world, and which all the world does still keep in despite of all their superinduc'd opinions and factions; for they all retain this Creed, and they all believe it to be the summary of Faith.

79. But the Church of *Rome* pretends to a power of appointing new Articles of Faith; and for denying this, Pope *Leo* the 10th condemn'd *Luther* in his Bull added to the last Council in *Lateran*. For *ad solam authoritatem summi Pontificis pertinet nova editio Symboli*, *A new edition of the Creed belongs to the sole authority of the Pope of Rome.* So *Aquinas:* and *Almain* most expresly, *The Popes of Rome by defining many things which before lay hid, Symbolum fidei augere consuevisse, are wont to enlarge the Creed.* For *Doctrina fidei admittit additionem in essentialibus*, saith *Salmeron*, *The doctrine of faith admits addition even in essential things.* And in consequence to these expressions, they did adde the article of the Procession of the Holy Ghost from the Son, in a Synod at *Gentilli* in *France*; and twelve Articles to the Creed in the Council of *Trent*, with the preface and postscript of the Athanasian Creed, damning all that doe not equally believe the Creed of *Trent* as the Creed of the Apostles.

2.22.q.1. a.10. Augusti. Tri. de Ancona q.59. art. 1. *Novum Symbolum condere solum ad Papam spectat, quia est caput fidei Christianæ, cujus authoritate omnia quæ ad fidem spectant firmantur & roborantur.* Idem art. 2. *Sicut potest novum Symbolum condere, ità potest novos articulos supra alios multiplicare.* Tom. 13. part. 3. disp. 6. § est ergo.

80. What effect and impress the declaration of any article by the Church hath or is to have upon the Conscience shall be discourst under the title of Eccleſiastical lawes; but that which is of present inquiry is, *whether any thing can be of Divine faith in one age that was not so in the age of the Apostles:* and concerning this it is that I say, that it is from the premisses evident that nothing can make any thing to be of Divine faith but our Bl. Lord himself, who is therefore called the Author and Finisher of our Faith; he began it, and he made an end. The Apostles themselves could not doe it, they were onely Stewards and dispensers of the mysteries of God; they did rightly divide the word of life, separating the necessary from that which was not so: so that their office in this particular was onely to declare what was necessary and what was not; no man, and no society of men could doe this but themselves, for none but they could tell what value was to be set upon any proposition: they were to lay the foundation, and they did so, and they built wisely upon it; but when they commanded that we should keep the foundation, they onely could tell us which was it, and they did so by their Sermons, preaching the same doctrine to the simple and the crafty, and by immuring the necessary doctrine in a form of words, and consigning it to all the Churches where they preach'd the Gospel.

81. For we see that all the world is not able to tell us how much is necessary, and how much is not, if they once goe beside the Apostles Creed: and yet it was infinitely necessary that at first this should be told, because there were so many false Apostles, and every one pretended authority or illumination, and every one brought a new word and a new doctrine; and the Apostles did not onely foresee that there would be, but did live to see and feel the heresies and the false doctrines obtruded upon the Church, and

did profeſs it was neceſſary that ſuch falſe doctrines ſhould ariſe: and againſt all this that they ſhould not provide an univerſal remedy, is at no hand credible, and yet there was none but the Creed; this all the Church did make uſe of, and profeſs'd it to be that ſummary of Faith which was a ſufficient declaration of all neceſſary faith, and a competent reproof of all hereſies that ſhould ariſe.

82. But then that after all this any one ſhould obtrude new propoſitions, not deducible from the Articles of the Creed, not in the bowels of any Article, neither actually expreſs'd nor potentially included, and to impoſe theſe under pain of damnation, if this be not κυριεύειν τῆς πίστως, which S. *Paul* ſaid he had no power to doe, *to have dominion* or *lordſhip over the faith*, and κατακυριεύειν τῶν κλήρων, *to lord it over Gods heritage*, which S. *Peter* forbad any man to doe, I confeſs I doe not underſtand the words, nor yet ſaw or ever read any man that did. I conclude this with thoſe excellent words of *Juſtinian* which are in the *Code*, part of the Imperial law by which almoſt all the world was long governed: ὁρθὴ καὶ ἀμώμητος πίστις, ὡσπερ κηρύττει ἡ ἁγία τοῦ Θεοῦ καθολικὴ καὶ Ἀποστολικὴ Ἐκκλησία, καὶ οὐδένα τρόπον καινισμὸν δέχεται, *This right and irreprehenſible faith* (ſpeaking of the Apoſtolical Creed, part of which he there recites) *which the Holy Catholick and Apoſtolick Church of God does preach, can by no means receive any innovation or change.*

2 Cor. 1. 24.

1 Pet. 5. 3.

Cod. lib. 1. de Sum. Trinit. & Cum recta.

83. I conclude therefore this Queſtion; In our inquiries of faith no mans Conſcience can be preſs'd with any Authority but of Chriſt enjoyning, and the Apoſtles declaring what is neceſſary. I adde alſo, that the Apoſtles have declar'd it in this form of words which they have often ſet down in their writings, and which they more largely deſcribed in their Symbol of Faith. For ſince, as *Sixtus Senenſis* ſays, *Omnes Orthodoxi Patres affirmant Symbolum ab ipſis Apoſtolis conditum*, that *all the Orthodox Fathers affirm the Creed to be made by the Apoſtles*, and they all ſay this is a ſufficient Rule of faith for all Chriſtians; here we ought to reſt our heads and our hearts, and not to intricate our faith by more queſtions. For as *Tertullian* ſaid well, *Hæc Regula à Chriſto, ut probabitur, inſtituta nullas habet apud nos quæſtiones niſi quas hæreſes inferunt, & quæ hæreticos faciunt*; Hereticks make diſputes, and diſputes make Hereticks, but faith makes none. For if upon the faith of this Creed all the Church of God went to heaven, all I mean that liv'd good lives, I am ſure Chriſt onely hath the keys of hell and heaven; and no man can open or ſhut either, but according to his word and his law: ſo that to him that will make his way harder by putting more conditions to his ſalvation, and more articles to his Creed, I may uſe the words of S. *Gregory Nazianzen*, *Tu quid ſalute majus quæris? gloriam nempe quæ illic eſt & ſplendorem: mihi vero maximum eſt ut ſalver, & futura effugiam tormenta. Tu per viam incedis minimè tritam & inceſſu difficilem: ego verò per regiam, & quæ multos ſalvavit, What doſt thou ſeek greater then ſalvation?* (meaning by nice inquiries and diſputes of articles beyond the ſimple and plain faith of the Apoſtles Creed) *It may be thou lookeſt for glory and ſplendor here. It is enough for me, yea the greateſt thing in the world, that I be ſaved and eſcape the torments that ſhall be hereafter. Thou goeſt a hard and an untroden path: I goe the Kings high-way, and that in which many have been ſaved.*

Lib. 2. biblioth. 5.

Lib. 1. adverſ. hæret. cap. 13.

See Liberty of Prophet. ſect. 1.

RULE

RULE XV.

In the Law of Christ there is no precept that wholly ministers to the Law of Moses; but for a time onely and less principally.

1. THis Rule I received from *S. Irenæus*; and they are his words as near as I could translate them. *In lege Christi non est ullum præceptum veteri tantum legi inserviens, nisi ad horam & minus principaliter.* For our Blessed Saviour descended like rain upon a fleece of wooll, and made no violent changes, but retain'd all the morality that he found amongst his Countrymen; he made use of their propositions, spake their proverbs, united their ejaculations into a collect of his own, for almost every word of the Lords Prayer was taken from the writings of the pious men of their Nation; he chang'd their rites into Sacraments, their customes into mysteries, their washings he made our Baptisme, their Paschal supper he converted into the Holy Eucharist: and still because he would be understood by them, he retain'd the Mosaick words when he deliver'd a Christian precept; for he knew his Father would send his Holy Spirit to be an infallible interpreter; and when the types of *Moses* pass'd into the substance of Christ, then the typical words also would be expounded in the senses of Evangelical duties.

2. For indeed it is not reasonable to suppose that our Bl. Saviour, who came to fulfil the Law in his own person, and to abolish it in his Disciples, to change the customes of *Moses*, and to be an eternal law-giver in the instances of moral and essential natural rectitudes, would give a new Commandement to confirm an old precept which himself intended to extinguish. No man puts a piece of new cloth to an old garment, nor a new injunction to an abrogated law; that is, no wise Master-builder holds up with one hand what he intends to pull down with both: it must therefore follow that whatever Christ did preach and affirme and exhort, was, although expres's'd in the words of the Law, yet wholly relative to the duty & signification of the Gospel. For that which S. *Hilary* said of all the words of Scripture, is particularly true in the sense now deliver'd of the Sermons of Christ: *Sermo enim divinus secundum intelligentiæ nostræ consuetudinem naturamque se temperat, communibus rerum vocabulis ad significationem doctrinæ suæ & institutionis aptatis. Nobis n. non sibi loquitur: atque ideo nostris utitur in loquendo.* God speaks to us and not to himself; and therefore he uses words fitting to our understandings. By common and usual expressions and such as were understood he expres's'd precepts and mysteries which otherwise were not to be understood. In Psal. 226

3. Thus when our Bl. Saviour delivers the precept of Charity and forgiveness he uses this expression, *When thou bringest thy gift unto the Altar, and there remembrest that thou hast any thing against thy Brother, leave thy gift at the Altar, goe and be reconcil'd to thy Brother, and then come and offer thy gift.* If Christ had said, When thou comest to the Lords supper and

haſt any thing againſt thy Brother, &c. he had not been underſtood: but becauſe we know this is an Eternal precept, part of a moral & eternal excellency, a duty of Chriſtianity and a portion of Chriſts inſtitution, and we know that Chriſt pull'd down the Jewiſh altars and the ſacrifice of beaſts by the ſacrifice of his Eternal Prieſthood, and we alſo are ſufficiently inſtructed by what inſtruments and by what miniſteries the memory of that is conſerv'd and the benefits of it conveyed; therefore we alſo are ſure that by theſe words Chriſt intended to command us to be at peace with our Brother and with our enemy, when we come to offer prayers and to celebrate the memorial of his Eternal ſacrifice.

4 So when our Bl. Saviour told the Parable of *Dives* and *Lazarus*, and intended to repreſent unto his Diſciples that we are to expect Salvation by the ordinary miniſteries of the Church, and not to expect it by the way of miracle and extraordinary diſpenſation; he was pleas'd to ſay, *They have Moſes and the Prophets, let them hear them.* This was all which could be ſaid to them whoſe Scriptures were compleated in the writings of *Moſes* and the Prophets: but when our great Maſter had by his H. Spirit and by his Apoſtles and Diſciples perfected another inſtrument of ſalvation and repoſitory of Divine truths, the propoſition is to be inlarg'd to theſe. They have Chriſt and his Apoſtles, they have the Goſpels and Epiſtles, let them hear them; for if they will not hear and obey them ſpeaking in the Scriptures, neither will they be converted though one ariſe from the dead, and appear to them in the terrible dreſſes of affrightment.

5. When Chriſt whipp'd the buyers and ſellers out of the Temple, and urg'd the words of the Prophet, *My Fathers houſe ſhall be called the houſe of prayer to all Nations; but ye have made it a den of theeves:* although this was ſpoken to the Jewes, and of their Temple, yet Chriſt who knew this Temple was to be deſtroyed and not a ſtone left upon a ſtone, intended the piety of his Commandement ſhould laſt longer then the dying Temple; and therefore it is to be tranſlated wholly to the Chriſtian ſenſe. And although he would not have the Temple prophan'd ſo long as it was ſtanding and us'd for prayer and Divine ſervice, *ad horam*, as S. *Irenæus* his expreſſion is; even *for an hour*, taking care of that becauſe it was a holy place: yet the ſacredneſs and holy uſage of the Temple was leſs principally intended; but principally Chriſt regarded the Chriſtian Oratories and ſeparate places of devotion; that where God by publick appointment and the lawes was to be worſhipped, there the affairs of the world ſhould not intrude by the intereſts of a private and a prophane Spirit.

Rule XVI.

The Lawes of Jeſus Chriſt are to be interpreted to the ſenſe of a preſent obedience according to their ſubject matter.

1. That which is true to day will be true to morrow; and that which is in it's own nature good or neceſſary any day is good or neceſſary every day: and therefore there is no eſſential duty of the Religion but is to be the work

work of every day. To confess Gods glory, to be his subject, to love God, to be ready to doe him service, to live according to Nature and to the Gospel, to be chast, to be temperate, to be just, these are the imployment of all the periods of a Christians life. For the Moral law of the Religion is nothing but the moral law of Nature, (as I have already proved *.) *Naturaliter lex nostra est lex pietatis, justitiæ, fidei, simplicitatis, charitatis, optimeque instituta*, said *Cardan*: and again, *Christiani Jovem junctum habent cum Sole, illiusque diem colunt Dominicum: Sol a. significat justitiam & veritatem; Christiana autem lex plus continet veritatis, & simpliciores reddit homines.* The Christian Law is nothing else but a perfect institution of life and understanding, it makes men wise, and it makes them good; it teaches wisdome, and it teaches justice; it makes them wise and simple, that is, prudent and innocent, and there is no time of our life in which we are permitted to be otherwise. Those who in the primitive Church put off their Baptisme till the time of their death, knew that Baptisme was a profession of holiness, and an undertaking to keep the faith, and live according to the Commandements of Jesus Christ; and that as soon as ever they were baptized, that is as soon as ever they had made profession to be Christs disciples, they were bound to keep all the Lawes of Christ: and therefore that they deferr'd their baptisme was so egregious a prevarication of their duty, that as in all reason it might ruine their hopes, so it proclaim'd their folly to all the world. For as soon as ever they were convinc'd in their understanding, they were oblig'd in their consciences. And although baptisme does publish the profession, and is like the forms and solemnities of law; yet a man is bound to live the life of a Christian, as soon as ever he believes the doctrine and Commandements of Christianity; for indeed he is oblig'd as soon as he can use reason, or hear reason. The first things a man can learn are some parts of Christianity; not to hurt any one, to doe all that he can understand to be good; that is, as soon as ever he begins to live like a rational creature, so soon he begins to live as Christ commanded: and since Baptisme (as to this relation and intention of it) is nothing else but the publication of our undertaking to doe that which in our very Nature and by the first and universal lawes of God to mankind we are obliged, to refuse to be baptized, or to defer it, is nothing but a refusing or deferring to own our natural obligation, a denying or not accepting the duty of living according to the law of Nature; which deferring, as it must needs be the argument of an evil man, and an indication of unwillingness to live worthily, so it can serve really no prudent ends to which it can fallaciously pretend. For Christianity being in its moral part nothing but the perfection of the natural law, binds no more upon us then God did by the very reason of our Nature. By the Natural law we are bound to live *in holiness and righteousness all the daies of our life*, and so we are by the Christian law; as appears in the song of *Zechary* and in very many other places: and therefore although when some of our time is elapsed and lost in careleſness and folly, the goodness of God will admit us to second Counsels, and the death of Christ and his intercession will make them acceptable; yet Christianity obliges us to obedience as soon as the law of Nature does, and we must profess to live according to Christianity, as soon as we can live by the measures of the Natural law, and that is even in the very infancy of our reason; and therefore Baptisme is not to be deferred longer: it may be sooner, because some little images of choice and reason, which must be conducted by the measures of Nature, appear even in infancy; but

* I. 1. c. 2. chap. 2. of this book. Beati. &c. pa. l. 2. c. 12.

it must not be deferred longer; there is no excuse for that, because there can be no reason for so doing, unless where there is a necessity, and it can be no otherwise.

2. The effects of this consideration are these. 1. All the negative precepts of Christs law are obligatory in all persons, and all periods, and all instances. *Nunquam licuit, nunquam licebit*; it was and is and ever will be Unlawful to doe any action which God forbids to be done: and therefore to say I will be chast when I am old, I will be temperate when I am sick, I will be just when I am rich, I will be willing to restore when I die, is to measure eternity by time, and to number that which is not. In negatives there is neither number, nor weight, nor measure: and not to kill, not to blaspheme, not to commit adultery hath no time, and hath no proportion.

3. 2. This is also true in the positive Commandements of Christ, in respect of the inward duty; that is never to be deferred. The charity of almes, the devotion of prayer, piety to our parents, love of God, love of our neighbour, desires to doe justice; these are not limited to times and opportunities. The habits of them and the dispositions to action, the readiness and the love must for ever be within; because these are alwaies possible, and alwaies good, and alwaies necessary, and therefore cannot have accidental determinations from without, being workes of the inward Man, they depend onely upon the grace of God and the will of man; and *that* never fails, if *this* does not, and therefore are alwayes possible unless we will not; but they are alwayes necessary, whether we will or no.

4. 3. The external actions of duty are determinable from without, and by things which are not in our power, and by things which will not happen alwaies and in some instances, by our own will and meer choice. Thus a man is bound actually to restore but in certain circumstances; but to be ready and to love to doe it, he is alwayes bound. To say our prayers is limited by time and place, by occasions and emergent necessities, by use and custome, by lawes and examples: but to depend upon God, to expect all good from him, to glorify him, to worship him with all our heart, is not limited, but may be done in all the actions of our life, by actual application, or habitual intention, by secret purpose, or by open profession, by obedience and by love, or by the voice and hand. For to *pray continually*] which is the precept of our Bl. Saviour, is obligatory in the very letter, in proportion to the natural possibilities and measure of a man; that is, in all our actions we must glorify God, which is one of the parts of prayer, and we must endear his blessing, which is the other. But to kneel, or to speak, or actually to think a prayer, being the body of this duty and determinable by something from without, receives it's limit [*according to the subject matter*] that is, when we are commanded, and when we have need, and when we can, and in the proper season of it.

5. This Rule is also otherwise explicated by distinguishing the affirmative precepts of Christ, into universal and particular. Particular precepts are to be acted onely in their proper determinations, in special times, and pertinent occasions, because they are always relative to time and place, or person;

person; they have a limited effect, and are but parts of a good life, and therefore cannot alone work out our salvation, but must give allowance of time and action to others, of the like particular and limited nature and effect.

6. But this is otherwise in the universal and diffusive, or transcendent precepts of the Religion, though they be affirmative. He that shall say, that because to love God is an affirmative precept, that it is onely obligatory in certain accidents, and times, and cases, and that therefore we are not always bound to love God, by the impiety of his conclusion reproves the folly of his proposition. Neither is it sufficient to say that we are indeed always bound to the habitual love of God, but not always to the actual; not always to doe an act of the love of God. For the love of God does not consist onely in the fancy or the passionate part, neither is it to be measured by the issues of any one faculty: and though we are not bound to the exercise of an act of passion, or intuition, or melting affection, that is, we are not always tied to a limited, particular, single effect of one grace, in all times; yet we are bound to doe an act of love to God, when we are bound to doe any act at all; for all our Religion, and all our obedience, and all our conversation is wholly to be conducted by the love of God: and although to love God be an affirmative Commandement, yet because it is a transcendent, or universal precept, and includes in it all those precepts, which by binding at several times, fill up all our time, and every of them being an act of obedience, is consequently an act and instance of our love to God, it follows, that there is no time in which we are not bound to love God; and to exercise acts of this grace does not depend upon times and circumstances.

7. Upon the accounts of this Rule it is very opportune, and certainly very useful, to inquire concerning the duty of Repentance; for upon this article the whole question of late or death-bed Repentance will depend, and consequently the eternal felicity or infelicity of mankinde: and therefore I have reason to reckon this to be the greatest Case of Conscience in the whole world; and it will appear so both in the event of the discourse, and in the event of things.

Question.

8. *At what time precisely is every sinner bound to repent of his sins, so that if he does not repent at that time, he commits a new sin?*

9. To this Question of *At what time*] the Church of *Rome* answers, *At what time soever*] For Repentance is as the precept of Baptism and Prayers. Neither this day nor to morrow precisely is it necessary to be baptized, but sometime or other; and if we pray half an hour hence, it is as much obedience as if we fall upon our knees at the instant of the proclamation. Adde to this, that since repentance (besides that it is an affirmative Commandement) is also a punitive duty, it is generally agreed upon *Neminem in conscientia donec condemnetur ad pœnam exolvendam teneri*, No man is bound to undergoe his punishment, till the instant that the Law determines him: and therefore when he is requir'd, when the day of humiliation comes, when there is danger that if it be not now done, it will

not be done at all, then let the ſinner look to it, then he muſt repent, it cannot be any longer put off. This is the doctrine of the Roman Schools, and of ſome others, which they have purſued to dangerous and horrid propoſitions.

10. *Scotus* and his Scholars ſay a man is bound to repent upon Holidays, as upon *Chriſtmaß*, *Whitſontide*, or at *Eaſter* to be ſure. But *Sotus* and *Medina* very confidently reprove this propoſition as too ſevere, for this reaſon; Becauſe the Church having appointed many Holidays, yet when ſhe explicates the doctrine of Repentance, ſhe did ſuppoſe it to be ſufficient to compel the ſinner to repent once by the year: and although the end why the Feſtivals are ordain'd is the inward ſanctification of the ſoul, *hæc tamen non eſt id quod per præceptum de obſervatione feſtorum injungitur, this is not it which was enjoyn'd by the precept concerning feſtivals*, ſaith *Reginaldus*. For the Church (ſaith he) commanded onely the means to this interiour holineſs; ſo that if you doe the outward work, it matters not (as to the precept of the Church) whether that end be acquired or no: you diſobey the Church if you doe not hear Maſs; but though you be never the better, ſo you doe but hear Maſs, ſhe does not finde her ſelf griev'd.

Vide Reginaldum in praxi fori pœnitent. l. 5. de contritione cap. 2. ſect. 4.

11. By the way, it is obſervable that *Scotus* and the more ſevere part of them, which affirm a man to be bound to repent on every Holiday, doe not intend to ſay that by the law of God men are ſo bound, but by the law of the Church onely. *Medina* and the looſer part deny the Church to have determin'd this affirmative and indefinite Commandement of Repentance to ſo much ſeverity. But as to the law of God, they all pronounce a man to be free to repent once for all; once he muſt, but when that once ſhall be God hath not ſet down: and ſince God left it at the greateſt liberty, they doe not believe that the Church is ſo ſevere as ſome pretend, neither doe they think it fit ſhe ſhould; but if they never repent till the article of death, they prevaricate no command of God. For [*Vera, atque adeo, ut expreſſit Navarrus in Enchir. cap. 1. n. 31. omnium communis ſententia eſt, tempus in quo peccator conteri tenetur* (*intellige per ſe, ſeu vi ſpecialis præcepti de contritione à Deo dati*) *eſſe imminentem articulum mortis naturalis, vel violentæ*] So *Reginaldus*. *The true and common opinion of all men is, that the time in which a ſinner is bound to have contrition for his ſins* (meaning in reſpect of any Divine Commandement) *is the article of imminent death, whether natural or violent*. And in the mean time [*There is no precept commanding that a ſinner ſhould not perſevere in enmity againſt God: there is no negative precept forbidding ſuch a perſeverance.* Nay worſe, if worſe be poſſible, [*even to reſolve to deferre our repentance* [*velle pœnitentiam differre, nolléque niſi ad aliquod tempus pœnitere*] and to refuſe to repent till ſuch a day, is but a very little ſin (ſaith *Sotus*;) it is none at all (ſaith *Medina*) it is neither an act of impenitence, nor at all unlawful.

L. 5. cap. 2. ſect. 4. n. 23.

Idem ſect. 3. n. 21.

12. Theſe are ſad ſtories to be told and maintained by Chriſtian families, but therefore the more carefully to be look'd to, becauſe it is concerning the ſumme of affairs, and an error here is worſe then an over-ſight in a day of battel: for repentance being the remedy for all the evils of our ſoul, if the remedy be ordered ſo as that it come too late, or deferr'd till the diſeaſe increaſe to an intolerable and an incurable evil, the ſtate of our ſoul muſt needs be without remedy; and that in our Philoſophy is equivalent to deſperation.

But

13. But before I reprove these horrid doctrines, which so intirely and without dispute prevail in some Churches, I am to say two things. 1. If God hath left the time of our repentance and return so wholly without care and provision, though by the doctrine of some Romane Doctors the Church hath been more careful of it and more severe then God himself, yet neither the care of the Church, nor the ordinary provisions and arrests made by God can ever be sufficient to cause men to live well in any tolerable degree. For if God binds you onely to repent in the day of your death, or if he to hasten it will affright you with a popular judgement upon the neighbourhood, all those that escape the sickness, and all that have but little or no reason to fear it, and all those that can flie from it shall not repent, and indeed shall not be tied to it. And if we consider the event and impressions usually made upon our cities and villages by any popular judgement, we shall finde so very many to be unconcerned, that if this be the time of repentance, the duty will upon this account goe but slowly forward: very many shall have no need to doe it; and none will doe it but they that have: and if the fear of imminent death be the onely period, we may easily perceive what ill provisions are made for repentance, when even dying men will hardly believe that they shall die yet, but hope for life, till their hopes and powers of working expire together. But then because it is pretended that the Church hath made better provisions, and tied all men to communicate at *Easter*, and consequently to repent by way of preparation to the Holy Communion; I consider that the Church can onely tie them to the outward signification of repentance, as Confession, and the appendages of that entercourse; and if they omit the inward and more spiritual and essential part of this great duty, they may for this sin as well as for all the other repent in the day of death, and that is sufficient for the performance of the Divine Commandement. And since the Church requires no more but a periodical and a ritual repentance, the repentance of a Christian will be like the *Persian* feast, which they call'd *vitiorum interitum, the destruction of impiety*; upon the anniversary of which feast they kill'd all the venemous creatures they could finde, but they let them alone to swarm till that day came again: and that is the event of these ritual and anniversary repentances; at a set time there is a declamation made against sin, and some significations of the evil of it express'd, but when the solemnity is over, it returns in all the material instances; and there is no help for it in this doctrine, nor in the customes and usages of those Churches that entertain it. So that this doctrine must be acknowledged as a destroyer of good life: and though I know no artifices of escape from this, that are made use of, yet if there were, we are not to consider what is talk'd amongst Schoolmen to excuse the objection and to maintain the faction, but what is really and materially the event of it, as it is every day observed in the manners of men.

14. The other thing which I was to say is this, that this doctrine of the Roman Schools, which is the common sentence of them all, cannot be directly confuted, unless we fall upon this proposition [*that a man is positively and directly bound to repent of his sin as soon as ever he hath committed it.*]

15. For if there be not something in the nature of sin that must not be retain'd at all; if there be not much in the anger of God that must not be endur'd at all; if there be not obligations to the service of God that must not

not be put off at all; if there be not great regards concerning the love of God without which we muſt not live at all; and laſtly, if there be not infinite dangers in our life, and that every putting our repentance off expoſes it to the inexcuſable danger of never having it done at all; then it muſt follow that repentance obliges no otherwiſe then alms, or ſaying our prayers, it is to be done in its proper ſeaſon: and the conſequent of that will be, that ſo it be done at all, we are ſafe enough if it be done at any time; and if you can deferre it till to morrow, you may alſo put it off till the next day, and ſo until you die. * And there is no avoiding it, as is evident to all rational and conſidering perſons: for to morrow and to day are both alike as to the affirmative command; and by Gods law we are not bound to it till the day of our death, if we be not bound to it every day. We muſt therefore chuſe our propoſition. Does God give us leave, if we have ſinn'd, to dwell in it, to forget our danger, to neglect the wound that putrifies? Is he pleaſed that we for whom he hath given his Son, we whom he hath adopted into his family and made members of Chriſt, we to whom he perpetually gives his grace, whom he invites by his promiſes, and calls by his Preachers every day, and affrights by his threatnings every hour, and incites by his Spirit, and makes reſtleſs by the daily emotions of an unquiet conſcience; that we whom he every day obliges, and no day neglects to doe ſomething towards our amendment and ſalvation; is he (I ſay) pleaſed that we ſhould in deſpight or contempt of all this abide in his diſpleaſure, and dwell in that ſtate of evil things, that if on any hour of ſo many days and weeks and moneths and years we chance to die, we die again and die for ever? Is this likely? Does God ſo little value the ſervices of our life, the vigor of our youth, the wiſdome of our age, the activity of our health, the imployment of our faculties, the excellency of our dwelling with him? Does he ſo little eſtimate the growth in grace, and the repetition of holy acts, the ſtrength of our habits, and the firmneſs of our love, that he will be ſatisfied with an accidental repentance, a repentance that comes by chance, and is certain in nothing but that it certainly comes too late? But if we may not deferre our repentance to the laſt, then we muſt not deferre it at all, we muſt not put it off one day: For if one, then twenty, if twenty, then twenty thouſand; there is no reaſon againſt one, but what is againſt all: but if we may not ſtay a thouſand days, then not one hour; and that is the thing I ſhall now contend for.

16. 1. I remember an odde argument uſed by *Reginaldus* * to prove that a man is not bound to be contrite for his ſins as ſoon as he remembers them; *becauſe* (ſays he) *if he were, then it were but ill provided by God and the Church that Preachers ſhould call upon men to confeſs their ſins, to be ſorrowful for them, and utterly to leave them: for there is no queſtion but ſuch diſcourſes will often remind us of our ſins; and if we were then tied to repent, and did ſin by not repenting, then ſuch preachings would be the occaſion of many ſins, and the law would be an intolerable Commandement, and Chriſts yoke not to be endured; becauſe men doe not finde it ſo eaſy to repent upon every notice:* ſo he. But this conſideration turn'd with the right end forwards is an excellent argument to enforce the duty which I am now preſſing of, a preſent actual repentance. For does God ſend Preachers who every day call upon us to repent, and does not God intend we ſhould repent on that day he calls to doe it? Doe the Prophets and Preachers of righteouſ-

* Ubi ſupra ſect. 3.

righteousnes bid us repent next year? Have they Commission to say, It were well and convenient if you would repent to day; but you doe not sin if you stay till next year, or till you are old, or till you die? To what purpose then doe they preach? Does not God require our obedience? Doe we not sin if the Preachers say well and right, and we doe it not? Is there any one minute, any one day in which we may innocently stay from the service of God? Let us think of that. Every day on which a sinner deferres his repentance, on that day he refuses to be Gods servant: and if God does command his service every day, then he every day sins on which he refuses. For unless God gives him leave to stay away, his very staying away is as much a sin as his going away, that is, his not repenting is a new sin.

17. And if by way of Objection it be inquir'd, By what measures or rules of multiplication shall such sins be numbred? whether by every day, and why not by every night, or why not by every hour, or every half hour? I answer, that the question is captious and of no real use, but to serve instead of a temptation. But the answer is this; 1. That the sin of not repenting increases by intension of degrees, as the perpetuity of an act of hatred against God. He that continues a whole day in such actual hostility and defiance increases his sin perpetually, not by the measures of wine and oile, or the strokes of the clock, but by spiritual and intentional measures; he still more and more provokes God, and in the eternal scrutiny God will fit him with numbers and measures of a proportionable judgement. 2. The sin of not repenting is also multiplied by extension; for every time a man does positively refuse to repent, every time a man is call'd upon or thinks of his duty and will not doe it, every such negative is a new sin, and a multiplication of his scores: and it may happen that every day that may become twenty sins, and in a short time rise to an intolerable height.

18. 2. He that remembers he hath committed a sin, either remembers it with joy or with displeasure. If with displeasure, it is an act of repentance; if with joy, it is a new sin; or if it be with neither, the man does not consider at all. But if it abides there, the sin will be apt to repeat its own pleasures to the memory, to act them in the fancy, and so endear them to the heart: and it is certain that all active considerations declare on one side or other, either for the sin or against it; and the Devil is not so backward at tempting, and the pleasure of the sin is not so unactive, but if ever it be thought upon without sorrow, it cannot easily be thought upon without some actual or potential delight: and therefore he that repents not, does sin anew. He that hath stoln is bound presently to restore if he can, and when it is in our hand it must also be in our heart to restore, and the evil must not be suffered so much as for an hour to dwell upon the injur'd person: so it is in the restitution of our hearts and our affections to God; there is an injustice done to God all the way by our detaining of his rights, the injury is upon him, he complains that we will not come in, and is delighted if we come speedily. Restitution therefore must be made presently; and for the satisfaction and amends for the wrong besides, God may longer expect, even till the day of its proper period.

19. 3. Does not God every day send something of his grace upon us? Does he not always knock at the door of our hearts, as long as the day of salvation

ſalvation laſts? Does not he ſend his Spirit to invite, his arguments to perſwade, and his mercies to endear us? Would he have any thing of this loſt? Is it not a ſin once to reſiſt the Holy Spirit? And he that remembers his ſin, and knows it is an offence againſt God, and yet does not repent at that thought and that knowledge, does not he reſiſt the Holy Spirit of God, ſo moving, ſo acting, ſo inſinuating? Is not every good Sermon a part of the grace of God? *Qui monet, quaſi adjuvat*, ſays the Comedy, *he that counſels you, helps you*: and can it be imagined that he that reſiſts the grace of God twenty years is not a greater villain then he that ſtood againſt it but twenty moneths, and ſo on to twenty days, and twenty hours? *Peccatorem tanto ſequitur diſtrictior ſententia quanto peccanti ei magna eſt patientia prorogata: & Divina ſeveritas eo iniquum acrius punit, quo diutius pertulit*, ſaith S. *Gregory*. The longer God hath expected our repentance, the more angry he is if we doe not repent; now Gods anger would not increaſe if our ſin did not. But I conſider, Muſt not a man repent of his reſiſting Gods grace, of his refuſing to hear, of his not attending, of his neglecting the means of ſalvation? And why all this, but that every delay is a quenching of the light of Gods Spirit, and every ſuch quenching cannot be innocent? And what can be expounded to be a contempt of God, if this be not; that when God by his preventing, his exciting, his encouraging, his aſſiſting grace invites us to repentance, we nevertheleſs refuſe to mourn for our ſins and to repent? * This is the very argument which the Spirit of God himſelf uſes, and therefore is not capable of reproof or confutation. *Becauſe I have called and ye refuſed, I have ſtretched out my hand and no man regarded: but ye have ſet at nought all my counſel, and would none of my reproof; I will alſo laugh at your calamity, and mock when your fear cometh.* Is not therefore every call to be regarded? and conſequently is not every refuſing criminal? and does not God call every day? Put theſe things together, and the natural conſequent of them is this, That he who ſins & does not repent ſpeedily, does at leaſt ſin twice, and every day of delay is a further provocation of the wrath of God. To this purpoſe are thoſe excellent words of S. *Paul*, *Deſpiſeſt thou the riches of his goodneſs and forbearance and long-ſuffering, not knowing that the goodneſs of God leadeth thee to repentance?* That is, every action of Gods loving-kindneſs and forbearance of thee is an argument *for*, and an exhortation *to* repentance; and the not making uſe of it is called by the Apoſtle, *a deſpiſing of his goodneſs*; and the not repenting is on every day of delay *a treaſuring up of wrath*:

Prov. 1. 24.

Rom. 2. 4.

Αἰψα γὰρ ἐν κακότητι βροτοὶ καταγηράσκουσι,

Men waxe old and grow gray *in their iniquity*, while they think every day too ſhort for their ſin, and too ſoon for their repentance. But (if I may have leave to complain) it is a ſad thing to ſee a man who is well inſtructed in Religion, able to give counſel to others, wiſe enough to conduct the affairs of his family, ſober in his reſolution concerning the things of this world, to ſee ſuch a perſon come to Church every Feſtival, and hear the perpetual Sermons of the Goſpel, the clamors of Gods Holy Spirit, the continual noiſe of *Aarons* bells ringing in his ears, a man that knows the danger of a ſinner if he dies without pardon, that the wrath of God cannot be endured, and yet that without a timely and ſufficient repentance it cannot be avoided; to ſee ſuch a man day after day ſin againſt God, enter into all temptations, and fall under every one, and never think of his repentance, but unalterably reſolve to venture for it, and for the acceptance

of

of it at the last: for it is a venture whether he shall repent; and if he does, it is yet a greater venture whether that repentance shall be accepted, because without all peradventure in that case it can never be perfected. But the evil of this will further appear in the next argument.

20. 4. He that does not repent presently, as soon as he remembers and considers that he hath sinn'd, does certainly sin in that very procrastination, because he certainly exposes himself to a certain and unavoidable danger of committing other and new sins. And therefore I cannot but wonder at the assertors of the opposite doctrine, who observe this danger, and signify it publickly, and yet condemn such persons of imprudence onely but not of sin. The words of *Reginaldus*, and according to the sense of *Navarre*, are these, *Ad quod tamen tempus pœnitentiam differre esse salutem animæ in magnum discrimen adducere patet per illud quod ex D. Augustino refertur in cap. siquis: & cap. finali de pœniten. dist. 7. dubiam esse salutem illorum quos non ante sed post ægritudinem pœnitet. Ratio verò esse potest quod in eo cernatur interpretativus contemptus Dei, qui sæpius per gratias prævenientes illos excitat ac movet ad resipiscentiam, agendamque pœnitentiam, conterendumve de suis peccatis: nihilominus non curant atque negligunt. He that defers his repentance brings his Soul into manifest and great danger, according to the doctrine of S.* Austin; *for it is an interpretative contempt of God, who often excites them by his preventing graces to repent and to doe penance, and to be contrite for their sins, but they neglect it and care not.* Now since thus much is observ'd and acknowledged, it is a strange violence to reason and to religion that it should not also be confessed to be the design and intention of God, his will and pleasure, the purpose of his grace and the Oeconomy of Heaven, the work of his Spirit and the meaning and interpretation of his Commandement, that we should repent presently. For when the question is concerning the sense and limit of an indefinite Commandement, what can be a better commentary to the law then the actions of God himself? for he understands his own meaning best, and certainly by these things he hath very competently and sufficiently declar'd it.

L. 5. prax. tom. pœnit. cap. 2. sect. 4. n. 23

21. If it be objected that these actions of the Divine grace are not sufficient to declare it to be a sin not to doe it, whenever the grace of God prompts us to repent, because we find that the Spirit of God does use rare arts to invite us forward to such degrees of perfection and excellency, to which whoever arrives shall be greatly rewarded, but if a man falls short, he does not sin; I reply, that the case is not the same in the matter of Counsel, and in the matter of a Commandement: For when the question is concerning the sense and signification, the definition and limit of that which is acknowledg'd to be a Commandement, the actions of the Divine grace signifying Gods pleasure and meaning, doe wholly relate to the Commandement; when the thing is onely matter of Counsel, then the actions of the Divine grace relate to that, and are to be expounded accordingly. But thus they are alike; that as God by his arguments and inducements, his assistances and aides declares that to doe the thing he counsels would be very pleasing to him; so they declare that what he commands is to be done, that he intends the Commandement then to bind, that whenever the one is good, the other is necessary. But his pleasure which he signifies concerning a Counsel, does not mean like his pleasure concerning a Commandement; but every thing according to the nature of the Subject Matter: for God

having left the one under choice, and bound the other by a law, whatever ſignification of the mind of God comes after this muſt be relative to what he hath before eſtabliſhed, and does not now alter, but onely expound now what his meaning was before. Since therefore the queſtion here is to what preciſe time we are oblig'd in the precept of repentance, nothing is more reaſonable then to conclude, that then God intended we ſhould keep the precept, when he enables us, and exhorts and calls upon us to doe it, which becauſe he by his grace and holy Spirit does every day, this declaration of God is the beſt Commentary upon his Commandement.

22. But to return to the firſt purpoſe of this argument. He that knowes he hath ſinn'd, and will not kill it by repentance, leaves the affections to ſin remaining; an aptneſs to be tempted, a relation to the Devil, a captivity to luſt, and an impotency under his paſſion. For if ſin be a curſed Serpent, if it leaves any venome upon the Spirit of the man, if by committing ſin we are more apt to commit it ſtill, he that hath ſinn'd, and when he remembers it does not repent, keeps himſelf in the diſpoſitions to ſin, he dwells in the Temptation and the Neighbourhood: and becauſe every thing that invites and directly tends to ſin is ſymbolical and of the ſame Nature, the retaining of that very aptneſs by not repenting the old, muſt needs be a progreſſion and going on in ſin, and therefore a new ſin by interpretation.

23. And if we conſider but the ſad circumſtances of thoſe perſons who wax old in careleſneſs and contempt of duty, how dead their Spirit is, how every day they grow more unwilling to repent, how habitual their perſwaſions are in the behalf of ſin, how accidentally hard they grow, and by perceiving ſo long an impunity, and that things remain as they were 20. years agoe, and that though they ſinn'd then, yet they are well ſtill, and all the affrightments of the Preachers ſermons are but loud noiſes and harmleſs thunder, they grow confident and ſtill more careleſs; we ſhall find that their Spirit is in declenſion, and is continually, and ſtill further diſtant from the friendſhip of God. So ſometimes we ſee a healthful body by the diſorders of one intemperate meeting fallen into the beginnings of a ſickneſs. The Man it may be does ſo no more; but feeling his ſickneſs tolerable, and under the command of reaſon, he refuſes to take phyſick, and to throw out the evil principle which begins to ferment in the diſordered body: but Nature being diſturbed and leſſened in her proper vigor, goes on in her uſual methods as well as ſhe can; ſhe goes forward, but ſhe carries a load, which in a long progreſſion growes intolerable, not by it's own weight, but by the diminution of Natures ſtrengths. But when the evil is grown great, the Phyſitian is call'd for; who eſpying the evil ſtate of things is forc'd to reply, It is now very late, for nature is weak and the diſeaſe is ſtrong. I ſhall doe what art can miniſter, but I fear that Nature is incapable of relief. So it is in the Soul; the very deferring of taking Phyſick is an increaſing of the diſeaſe. For every ſin is *Ulcus*, ἕλκος ἀπὸ τοῦ ἕλκειν, it is an *Ulcer* and *drawes* all the humors thither for it's increaſe and nouriſhment: and that which is ſore will ſwell, and all the waters will run to the hole in the bank, and every finger to the wound that ſmarts, and every eye to the thing we fear: and therefore it hath been obſerv'd by the wiſe guides of Souls, that thoſe perſons who defer their repentance to their old age, their repentance comes off the harder, their penitential acti-

ons

ons are the worse, their zeal colder, their care more indifferent, their religion less, their fears are trifling, their love starke and cold, their confessions formal and imperfect, every thing amiss, nothing right: but no repentance can be that which God intends, unless it begins betimes.

Vidi ego quod fuerat primò sanabile vulnus
Dilatum longæ damna tulisse moræ. Ovid.

Any one disease if let alone, though there be no new sickness supervening, growes mortal by meer delay, and incurable for want of timely remedy.

24. 5. Let us consider upon what account any man can defer his repentance and yet be innocent. It must either be because he loves his sin, or because he loves not God; because he either despises the Divine justice, or presumes upon his mercy; because he hath evil principles, or because he will not obey those which are good. It is positive impenitence, or it is privative; it is hardness of heart, or it is effeminacy of life; it is want of fear, or want of love: and whatsoever can come from any of these causes or beginnings can never be innocent. And therefore S. *Ambrose* his question was a good caution and a severe reproof. *Quid enim est quod differas? an ut plura peccata committas? Why doe you defer your repentance? is it because you would commit more sins?* That's most likely.

Sed quia delectat Veneris decerpere fructus,
Dicimus assiduè, Cras quoque fiet idem.
Interea tacitæ serpunt in viscera flammæ,
Et mala radices altiùs arbor agit. Lib. 1. de remed. amoris

He that sayes he will not repent of his lust to day, sayes in effect that he means to act it again to morrow; for why else should he put his repentance farther off?

Quid juvat in longum causas producere morbi?
Cur dubium expectat cras hodierna salus?

If you really intend your cure, it is better to begin to day then to morrow: and why should any man desire to be sick one day longer? Whatever can be in it, it is a disease and a very sickness of it self. There can be no good excuse pretended for it. For if carelesness, if the neglect of holy things can ruine us (as certainly a man may die with hunger as surely as by gluttony, by not eating at all as well as by eating too much, by omission as well as by commission) it will follow that the not repenting is fatal and damnable, because every *delay* is a *Not-repenting* till that delay be gone.

25. 6. The Scripture does every where call upon us for a speedy repentance. For God that commands us to pray every day, consequently commands us to repent every day. This argument ought to prevail even upon the adversaries account: For *Navarre* confesses, *Extra tempus articuli mortis dantur casus in quibus peccator conteri tenetur per aliud, sive ex vi alicujus præcepti quod peccator ipse transgreditur, aliquid agens non contritus.* When there is any distinct precept obliging to a duty which cannot be done by him that is not penitent, he that directly obliges to that other duty, does indirectly and consequently at that very time oblige to repentance. Thus when the Church obliges a Priest to consecrate and to communicate, because he who does so without repentance commits a deadly sin, the Church accidentally ties him at that time to repent. From these premisses I assume, that since God obliges us every day to pray, he also Apud Reginald ubi supra.

obliges us to doe that without which we cannot pray as God intends we ſhould: that is, to throw away all our affection to ſin, to repent of it and to forſake it. For *the prayer of a wicked man is an abomination to the Lord*, ſaid *Solomon*; and *we know that God heareth not ſinners*, ſaid he in the Goſpel, that is, thoſe who having ſinn'd have not yet repented,

——*Infelix infelicior ut ſit*,

being *unhappy* in their haſty ſin, but *more unhappy* in their ſlow repentance: but it is the prayer of the repenting man which God will hear; & therefore our Bleſſed Saviour commanding us to pray and teaching us how, enjoynes us that we every day pray for the forgiveneſs of our treſpaſſes; as for our daily bread, ſo for our daily pardon: *Panem noſtrum da nobis hodie*, *Give us this day* our proportion of *bread*; and therefore alſo this day give us pardon; for we muſt return *to day*: *Hodie* for bread, and *hodie* for forgiveneſs and amendment. So the Pſalmiſt, and ſo the Apoſtle in his words, *To day hear his voice and harden not your hearts*; not onely expreſsly commanding us not to defer our repentance one day, but plainly enough affirming that every ſuch delay is an act of hardneſs of heart and obduration, and therefore a new ſin ſuperadded to the old. For although in Nature and Logick time conſignifies, that is, it does the work of accidents and appendages and circumſtances, yet in Theology it ſignifies and effects too; time may ſignify a ſubſtantial duty, and effect a material pardon: but of all the parts of time we are principally concern'd in the *preſent*. But it is remarkable, that though [*Hodie*; *to day*] ſignifies the preſent time, yet the repentance which began yeſterday, which took an earlier *hodie*, is better then that which begins *to day*: but that which ſtaies till to morrow is the worſt of all.

Ille ſapit quiſquis, Poſthume, vixit Heri.

For *Heri* and *Hodie*, *yeſterday* and *to day*, ſignifies *Eternity*: ſo it is ſaid of Chriſt, *Yeſterday and to day, the ſame for ever.* But *Hodie* and *Cras*, *to day* and *to morrow*, ſignifies but *a little while*. *To day and to morrow I work*, ſaid Chriſt, that is, I work a little while; and *the third day*, that is, very ſhortly or quickly, *I ſhall make an end.* That repentance is likely to prevail to a happy eternity which was yeſterday and to day, but if it be deferred till to morrow, it begins late and will not laſt ſo long. * To this purpoſe excellent are thoſe words of *Ben-Sirach*, *Make no tarrying to turn unto the Lord, and put not off from day to day: for ſuddenly ſhall the wrath of the Lord come forth, and in thy ſecurity thou ſhalt be deſtroyed.* Meaning that every day of thy life may be the day of thy death, therefore take heed, and *defer not untill death to be juſtified*, for God oftentimes ſmites ſinners in their confidence; he ſtrikes them in their ſecurity, in their very delay they are ſurpris'd, in their procraſtination they ſhall looſe their hopes, and the benefit and uſefulneſs of to morrow. For what is vain man that he ſhould reſolve not to repent till *Eaſter*? It may be at that very time he ſo reſolves there is an impoſtume in his head or breaſt, or there is a popular diſeaſe abroad that kills in three daies, or to morrows dinner ſhall cauſe a ſurfeit, or that nights drinking ſhall inflame his blood into a feaver, or he is to ride a journey the next day and he ſhall fall from his horſe and die, or a tile in the ſtreet ſhall daſh his brains out; and no man can reckon all the poſſibilities of his dying ſuddenly, nor the probabilities that his life will end very quickly. This queſtion therefore may be determin'd without the intrigues of diſputation. Let a man but believe that he is mortal, let him but confeſs himſelf to be a man, and ſubject to chance, and there is no more

Eccluſ 5. 7.

requir'd

requir'd of him in this article, but the consequence of that confession. *Nemo Deo credens non se sub verbis ejus corrigit nisi qui diu se putat esse victurum*, saith S. *Austin*, *Whosoever believes in God will presently amend his life at the command of God, unless he thinks he shall live long.* But what if a man should live long? is it so intolerable a thing to live vertuously when we are to live long, that the hopes of life shall serve to no other end but that sin may be continued and repeated, and repentance may be delayed? That's the worst conclusion in the world from such premisses. But however, he that considers that so many men and women die young, will have but little reason to conclude to so evil and dangerous purposes from so weak and contingent principles. When *Theramenes* came out from his friends house the roof and walls immediately fell down. The *Athenians* espying the circumstances of that safety, flock'd about him, congratulated his escape, and cried him up as a man dear unto the Gods for his so strange deliverance from the ruine. But he wisely answer'd, *Nescitis, viri, ad quæ tempora & pericula Jupiter me servare voluerit, Ye know not, O Athenians, to what evils I am reserved.* He said true, for he that had escap'd the fall of a house in *Athens*, was in a little while condemn'd by the *Ephori* of *Sparta* to drink the cold and deadly hemlock; he pass'd but from one opportunity of death unto another.

Οὐκ ἔστι θνητῶν ὅστις ἐξεπίσταται
Τὴν αὔριον μέλλουσαν εἰ βιώσεται. Eurip.

No man can tell whether he shall live till to morrow: and to put off our repentance when it may be there is at the very instant the earnest of death in thy heart or bowels, a stone ready form'd, hardned and ripe in the Kidneies, and will before to morrow morning drop into the bladder,

Mors latet in mediis abdita visceribus,

Death is already plac'd in the stomach, or is gone into the belly, then, that is, in any case to defer repentance, is a great folly and a great uncharitableness, and a contempt of all the Divine revelations concerning heaven and hell. Μὴ πίστευε χρόνῳ, of all things in the world *doe not trust to time.*

——*Obrepit non intellecta senectus;*
Nec revocare potes qui periere dies. Auson

In time there is nothing certain, but that a great part of our life slips away without observation, and that which is gone shall never come again. These things although they are dress'd like the arguments of Orators, yet they doe materially and logically conclude, That if to be uncharitable be a sin, he that defers his repentance in so uncertain a life and so certainly approaching death, must needs be a very great sinner upon that account, because he does not love himself, and therefore loves no body, but abides without charity. But our Bl. Saviour hath drawn this Caution into a direct precept, *Agree with thine adversary* ταχὺ *quickly:* The hope of Eternity which now is in thy hand may else be lost for ever, and drop through thy fingers before to morrow morning. *Quanto miser in periculo versaberis, quamque inopinati rerum casus te abripient!* Miserable man, thou art in extreme danger, and unlook'd for accidents may end thy talkings of repentance and make it impossible for ever. A man is subject to infinite numbers of chances; and therefore that we may not rely upon the future or make delayes, let us make use of this argument, *Whatsoever comes by chance, comes upon the sudden.* S. Greg. Naz. in Sanct. Bapt.

26. But becauſe this diſcourſe is upon the grounds of Scripture, it is of great force what was by the Spirit of God threatned to the Angel of the Church of *Epheſus*; *Repent, for I will come unto thee quickly, and remove the Candleſtick out of its place unleſs thou doeſt repent:* that is, unleſs thou repent quickly, I will come quickly. Who knows how ſoon that may be to any man of us all? and therefore it is great prudence and duty and charity to take care that his coming to us doe not prevent our return to him; which thing can never be ſecur'd but by a preſent repentance. And if it be conſider'd that many perſons as good as we, as wiſe, as confident, as full of health, and as likely to live, have been ſnatch'd away when they leaſt did think of it, with a death ſo ſudden, that the deferring their repentance one day hath been their undoing for ever; that if they had repented heartily, and choſen a good life clearly and reſolvedly upon the day before their ſudden arreſt, it would have look'd like a deſign of grace and of election, and have rendred their condition hopeful; we ſhall finde it very neceſſary that we doe not at all deferre our return, for this reaſon, becauſe one hours ſtay may not onely by interpretation, but alſo in the real event of things, prove to be that which S. *Auſtin* call'd [the ſin againſt the Holy Ghoſt] that is, *final impenitence.* For as he that dies young, dies as much as he that dies after a life of fourſcore years; ſo is that impenitence final under which a man is arreſted under the infancy of his crime, as much as if after twenty years grace and expectation, the man be ſnatch'd from hence to die eternally. The evil is not ſo great, and the judgement is not ſo heavy, but as fatal and as irreverſible as the decree of damnation upon the falling Angels.

Revel. 2. 5.

27. 7. When we ſee a man doe amiſs we reprove him preſently, we call him off from it at the very time, and every good man would fain have his unhappy friend or relative leave in the midſt of his ſin, and be ſorry that he went ſo farr; and if he have finiſh'd his ſin, we require of him inſtantly to hate it, and ask pardon. This is upon the ſame account that God does it, becauſe to continue in it, can be for no good; to return inſtantly hath great advantages; to abide there is danger, and a ſtate of evil; to chuſe to abide there is an act of love to that evil ſtate, and conſequently a direct ſin; and not to repent when we are admoniſhed, is a chuſing to abide there: and when ever we remember and know and conſider we have ſinn'd, we are admoniſhed by Gods Spirit and the principles of grace and of a holy Religion. So that from firſt to laſt it follows certainly, that without a new ſin, we cannot remember that we have ſinn'd unleſs then alſo we doe repent: and our aptneſs to call upon others to doe ſo is a great conviction that every man is oblig'd in his own particular to doe ſo.

Menand. Ἅπαντες ἐσμεν εἰς τὸ νουθετεῖν σοφοί,
Αὐτοὶ δ' ἁμαρτάνοντες ἐγιγνώσκομεν.

Since we are all wiſe enough to give good counſel, it will reproach us if we are not conducted by the conſequences of our own wiſe advices. It was long firſt, but at laſt S. *Auſtin* fell upon this way; nothing could end his queſtions, or give reſt unto his conſcience, or life to his reſolutions, or ſatisfaction to his reaſon, or definition to his uncertain thoughts, or a concluſion to his ſin, but to underſtand the precept of repentance to oblige in the very preſent and at no time elſe. *Differens dicebam modò, ecce modò, ſine paululùm: ſed modò & modò non habebat modum.* He would anon, and he would next week, and he would againſt the next Communion; but there

there was no end of this: and when he saw it, *sub fico stravi me flens, quamdiu, quamdiu cras, & cras? quare non modò? quare non hâc horâ finis turpitudinis meæ?* I wept and said, how long shall I say *To morrow?* Why shall I not now by present repentance put an end to my crimes? If not now, if not till to morrow, still there is the same reason for every time of your health, in which you can say to morrow. There is enough to determine us *To day*, but nothing that can determine us *To morrow*. If it be not necessary now, it is not necessary then, and never can be necessary till it be likely there will be no morrow-morning to our life. I conclude this argument in the words of the Latine Anthology,

Converti ad rectos mores & vivere sanctè
In Christo meditans, quod cupit acceleret.

He that would live well and be Christs servant, must make haste, and instantly act what he knows he ought always to purpose, and more. To which purpose S. *Eucherius* gives this advice, which at first will seem strange, *Propound to your self the example of the thief upon the Cross: Doe as he did.* Yes, we are too ready to doe so, that is, to deferre our repentance to the last, being encouraged by his example and success. No: we doe not as he did, that is a great mistake. It is much to be wish'd that we would doe as he did in his repentance. How so? S. *Eucherius* thus resolves the riddle, *Ad consequendum fidem non fuit extrema illa hora, sed prima.* He did not deferre his repentance and his faith unto the last; but in the very first hour in which he knew Christ, in that very instant he did believe and was really converted: he confess'd Christ gloriously, and repented of his sins without hypocrisy: and if we doe so too, this question is at an end, and our repentance shall never be reproved.

28. 8. He that hath sinn'd, and remembers that he hath sinn'd, and does not repent, does all that while abide in the wrath of God. God hates him in every minute of his delay. And can it consist with any Christian grace, with faith, or hope, or charity, with prudence or piety, with the love of God, or the love of our selves, to outstand the shock of thunder, to outface the Canon, to dare the Divine anger, and to be careless and indifferent though he be hated by the fountain of love and goodness, to stand excommunicate from Heaven? All this is beside the sin which he committed; all this is the evil of his not repenting presently. Can a man consider that God hates him, and care not though he does, and yet be innocent? And if he does care, and yet will not remedy it, does not he then plainly despair, or despise it presumptuously? and can he that does so be innocent? When the little boy of *Xylander* saw a company of Thieves robbing his Fathers house, and carry away the rich Vessels, and ten Attick talents, he smil'd and whipt his Top. But when a child who was in their company stole his Top from him, he cried out and rais'd the neighbourhood.

Sic sunt qui rident, nec cessant ludere, sævus
Cum Satanas illis non peritura rapit.

So is he that plays on and is merry when his Soul is in the possession of the Devil: for so is every Soul that hath sinn'd and hath not repented: he would not be so patient in the loss of his money, he would not trust his gold one hour in the possession of Thieves, nor venture himself two minutes in a Lions power; but for his Soul he cares not though it stay moneths and years in a danger so great as would distract all the wits of mankinde, if they could understand it perfectly as it is.

29. 9. If there were nothing elſe, but that ſo long as his ſin is unrepented of, the man is in an unthriving condition, he cannot entertain Gods grace, he cannot hope for pardon, he cannot give God thanks for any ſpiritual bleſſing, he cannot love his word, he muſt not come to the holy Sacrament; if (I ſay) there were nothing elſe in it but the meer wanting of thoſe excellencies which were provided for him, it were an intolerable evil, for a man to be ſo long in the dark without fire and food, without health or holineſs: but when he is all that while the object of the Divine anger, and the right-aiming thunderbolts are directed againſt his heart from the bow in the clouds, what madneſs and what impiety muſt it needs be to abide in this ſtate of evil without fear and without love!

30. 10. The advice of S. *Paul* in the inſtance of anger hath ſomething in it very pertinent to this article, *Let not the Sun goe down upon your wrath*; that is, Doe not ſleep till you have laid aſide your evil thoughts: for many have quietly ſlept in ſin, who with horror and amazement have awak'd in hell. But S. *Pauls* inſtance of anger is very material, and hath in it this conſideration, That there are ſome principiant and mother-ſins, pregnant with miſchief, of a progreſſive nature, ſuch ſins which if they be let alone, will of themſelves doe miſchief; if they be not kill'd they will ſtrike; like as Quick-ſilver, unleſs it be allayed with faſting ſpittle, or ſome other excellent art, can never fixe: now of theſe ſins there is no queſtion but a man is bound inſtantly to repent; and there is no ſeaſon for theſe, but all times are alike, and the firſt is duty. Now how many are thus is not eaſily told; but it is eaſily told, that all are ſo of their own nature, or may be ſo by the Divine judgement, and therefore none of them are to be let alone at all.

31. 11. The words of S. *Auſtin* which he intended for exhortation, are alſo argumentative in this queſtion, *Hodiernum habes in quo corrigaris*, You have this day for your repentance. To morrow you have not. For God did not command him that liv'd in the time of *Samuel* to repent in the days of *Moſes*; that was long before him, and therefore was not his time: Neither did he command that *Manaſſes* ſhould repent in the days of the *Aſmonæi*; they liv'd long after him, and therefore that could not be his time, or day of repentance. Every one hath a day of his own. But when we conſider that God hath commanded us to repent, and yet hath given us no time but the preſent, we ſhall perceive evidently, that there is no time but the preſent in which he intended we ſhould obey him. Againſt this there can be no objection; for it is ſo in all other precepts whatſoever, unleſs there be ſomething in the nature of the action that is determinable by circumſtances and particularities: but in this there is nothing of relation to time and place; it may be done at any time, and is of an abſolute, irreſpective nature, of univerſal influence, and of abſolute neceſſity: and God could no more intend to morrow to be the proper ſeaſon of repentance, then he could intend the five and twentieth Olympiad to be your day for it; for the Commandement is preſent, and to morrow is not preſent; and therefore unleſs we can ſuppoſe a Commandement, and no time given us with the Commandement for the performing it, we muſt ſuppoſe the preſent onely to be it. If to morrow does come, then when it is preſent, it is alſo the time of your repentance. By which it is infallibly certain,

tain, and must be confess'd so by all wise and rational persons that know the consequences of things, and the perswasion of propositions, that God in every present commands us to repent; and therefore in every present in which we remember our sin and repent not, we offend God, we prevaricate his intentions, we sin against his mercies, and against his judgements, and against his Commandements. I end this with the plain advice of *Alcimus Avitus*;

Dum patulam Christi cunctis clementia sese
Præbet, præteritæ plangamus crimina vitæ,
Pœniteatque olim negligenter temporis acti,
Dum licet, & sano ingenióque animóque valemus.

In which words, besides the good counsel, this argument is insinuated, That because we must repent even of the days of our negligence, and be sorry for all our mis-spent time, and weep for having stai'd so long from God, it follows that the very deferring of our repentance, our very neglecting of it is a direct sin, and increases the causes of repentance; and therefore makes it the more necessary to begin the sooner, by how much we have stai'd the longer.

Question II.

32. *As an appendage to this great Case of Conscience, it is an useful inquiry to ask, Whether a man is bound to repent, not onely the first time, but every time that he thinks of his sin.*

33. I answer, that he is; but to several purposes, and in differing measures and significations. If he hath never repented, then upon the former accounts, every remembrance of his sin is a specification and limit to the indefinite and affirmative Commandement; and the second thought of it, because the first not being attended to hath increased the score, and the time being so much the more spent, hath increased the necessity and the haste: and if the second be neglected, then the third still calls louder; and every succeeding thought does not onely point us out the opportunity, and the still proceeding season of doing it, but it upbraids every preceding neglect, and presses the duty stronger by a bigger weight of the same growing arguments. For no man is safe but he that repents at least to day; but he was wise that repented yesterday. And as it is in humane entercourse, he that hath done wrong, and runs presently to confess it, and offer amends, shall have easier terms of peace then he that stands out at law, and comes not in till he be compell'd: so it is in our returns to God; the speedy penitent shall finde a ready and a prepared mercy; but he that stays longer will finde it harder, and if he stays to the last, it may be not at all. * But then if we have repented at the first monition or memory of sin, we must never any more be at peace with it: it will perpetually make claim, it will every day sollicite, it will break into a flame upon the breath of every temptation, it will betray thy weakness and abuse thy credulity, it will please thy fancy and abuse thy understanding, it will make thee sin again as formerly, or desire to sin, to fall willingly, or very hardly to stand; & after all, if thou hast sinn'd thou art under a sad sentence, and canst not tell when thou shalt have a certain peace. So that whenever thou thinkest of thy sin thou hast reason to be displeased, for thou art always the worse for it;

it: always in danger, or always uncertain: thou haſt always ſomething to doe, or ſomething to undoe; ſomething to pray for, and many things to pray againſt. But the particular cauſes of a perpetual repentance for our paſt ſins are reducible to theſe two.

34. 1. When ever we have ſinn'd, and fallen into the Divine diſpleaſure, we dwell for ever after in the dark: we are ſure we have ſinn'd, and Gods anger is plainly revealed againſt ſinners: but we know not how farre this anger will extend, nor when it will break out, nor by what expreſſions it ſhall be ſignified, nor when it will goe off, nor at what degree of ſorrow God will be appeaſed, nor how much induſtry ſhall be accepted, nor how many actions of infirmity ſhall be allowed; nothing of this is revealed. But we are commanded to doe an indefinite duty, we are to have an unlimited watchfulneſs, we are called upon to have a perpetual caution, a duty that hath no limit, but all our time and all our poſſibilities; and all the fruit of this is growing in the Paradiſe of God, and we ſhall not taſt it till the day of the revelation of the righteous judgement of God. In the mean time we labour and fear, we fear and hope, we hope and are uncertain, we pray and cannot ſee what will be the event of things. Sometimes we are confident; but that pertneſs comes it may be from the temper of the body, and we cannot eaſily be ſure that it comes from God: and when we are caſt down, it may be it is nothing but an effect of the ſpleen, or of ſome hypochondriacal propoſitions, or ſome peeviſh company, and all is well with us, better then we think it is; but we are under the cloud, and, which is worſt of all, we have always but too much reaſon to fear, and conſequently to be grieved for the cauſes of all this darkneſs, and all this fear, and all this danger.

35. 2. Beſides all this, our ſin is ſo long in dying, and we kill it with ſuch lingring circumſtances, and reprieve it ſo often, and it is often laid onely aſide until the day of temptation, and our repentance is ſo frequently interrupted, or made good for nothing, and even in our weepings for ſin we commit folly, that a man can never tell when he hath done, and when he is to begin again. For theſe reaſons we finde it very neceſſary to hate our ſin perpetually, and for ever to deplore our calamity in the Divine diſpleaſure, to remember it with ſorrow, and to ſtrive againſt it with diligence. Our ſins having made ſo great an alteration in our perſons, and in the ſtate of our affairs, we cannot be ſo little concerned as to think of them with indifference; a ſigh at leaſt, or a tear will well become every thought; a prayer for pardon, or an act of indignation againſt them; a *Domine miſerere*, or a *Me miſerum peccatorem! Have mercy upon me, ô God*, or, *Miſerable man that I am!* ſomething of hope, or ſomething of fear. Own it but as a cauſe of ſorrow, or an inſtance of thy danger; let it make thee more zealous or more patient; troubled at what is paſt, or cautious for the time to come: and if at every thought of thy ſin it be not eaſy to doe a poſitive act of repentance, yet the actions muſt be ſo frequent that the repentance be habitual; ever in preparation, and ever apt for action; ſeeking occaſions of doing good, and omitting none; praying and watching againſt all evil, and committing none. At this rate of repentance a man muſt always live, and in Gods time expect a freedome from ſin, and a confirmation in grace. But then as to the main iſſue of the Queſtion;

It

26. It is not intended that a man should every time weep when he thinks of his sins; sometimes he must give thanks to God for his escape, and rejoyce in the memory of the divine mercies, and please himself in the promises of pardon, and doe acts of Eucharist and holy festivity. But even these acts of spiritual joy, if they indear our duty, they destroy our sin; if they make us to love God, they make us to hate sin; if they be acts of piety, they are acts of repentance. So that when it is said, at every thought of your sin you must doe something of repentance, if you doe any act at all, this is nothing else but a calling upon us for the particulars, and to pursue the methods of a good life.. For repentance is the conversion of the whole man, an intire aversation from evil, and a full return to God; and every action of amendment, every prayer for pardon, and every mortification of our desires, every observation and caution against danger, all actions of a holy fear, and every act of hope, even our almes and mercy to Dan. the poor, is a breaking off our sins, and therefore an action of repentance. So that if there can be any time of our life in which a sinner may not serve God and yet be innocent, then it may be allowed at some time to think of our sin and consider it, and yet not to doe an act of repentance; but in no case else can it be allowed.

37. So that by this discourse we have obtain'd all the significations of *Hodie to day*, and they all relate to repentance. For though it signifies the present time as to the beginning of this duty, yet it signifies our whole life after that beginning, that is our *Hodie*, *to day*, we must begin now and continue to doe the same work all our daies. Our repentance must begin *this day* by the computations of time, and it must not be put off one day, yet it must goe on by the measures of Eternity. As soon as ever and as long as ever we can say *Hodie*, it is *to day*, so soon and so long we must repent. This is as certain in Divinity as a demonstration in the Mathematicks.

38. The summe is this; If by repentance we mean nothing but sorrow, then it hath it's season, and does not bind alwaies to all times. But if by repentance we understand a change of life, to which sorrow is onely instrumental and preparatory, then it is our duty alwaies to repent. That is, if you doe any thing at all, it must be good: even to abide in goodness, to resolve not to sin, to love not to sin, to proceed or to abide in innocence by choice and by delight, by custome and resolution, are actions of an habitual repentance; but repentance is never safe till it be habitual, but then also it is so much the more perfect, by how much it is the more actual.

39. To conclude this inquiry, we must pray often, but we must repent alwaies: and it is in these affirmative precepts as it is in the matter of *life* and *eating*; we must eat at certain times and definite seasons, but we must live continually. Repentance is the new life of a Christian; and therefore we must no more ask when we are bound to repent, then when we are by nature requir'd to breath. The motion must return speedily, or we die with strangling.

RULE

Rule XVII.

Becauſe the Lawes of Jeſus Chriſt were delivered in Sermons to a ſingle perſon, or a definite number of hearers, we are curiouſly to inquire and wiſely to underſtand, when thoſe perſons were onely perſonally concerned, and when they were Repreſentatives of the whole Church.

1. THis Rule I learn from S. *Auſtin*, *Erit igitur hoc in obſervationibus intelligendarum Scripturarum, ut ſciamus alia omnibus communiter præcipi, alia ſingulis quibuſque generibus perſonarum: ut non ſolum ad univerſum ſtatum valetudinis, ſed etiam ad ſuam cujuſque membri propriam infirmitatem medicina pertineat.* Some things are given to all; others but to a few; and ſome commands were to ſingle perſons and ſingle ſtates: God having regard to the well-being of ſocieties, and to the health even of every ſingle Chriſtian. That there is a neceſſity of making a diſtinction is certain, but how this diſtinction is to be made is very uncertain, and no meaſures have yet been deſcribed, and we are very much to ſeek for a certain path in this intricacy. If we doe not diſtinguiſh precept from precept, and perſons from ſtates of life, and ſtates of life from communities of men, it will be very eaſy for witty men to bind burdens upon other mens ſhoulders with which they ought not to be preſs'd; and it will be very ready for ſcrupulous perſons to take loads upon themſelves which appertain not to them; and very many will diſpute themſelves out of their duty, and ſay, *quid ad me?* I am not concerned here; and the Conſcience ſhall be unguided and undetermin'd while the lawes of order ſhall themſelves lye undiſtinguiſh'd and undiſcerned in confuſion and indiſcrimination. There muſt be care taken of this, or elſe caſes of Conſcience will extremely multiply to no purpoſes but thoſe of danger and reſtleſs ſcruple. The beſt meaſures that I know are theſe;

Lib. 3. de doctrina Chriſtiana c. 17.

2. 1. There are ſome precepts which are by all men confeſſed to be General, and ſome are every where known to be meerly Perſonal; and by proportion to theſe we can be help'd to take account of others. When *Abraham* as a trial of his obedience was commanded to ſacrifice his Son, this was alone a Commandement given to that man concerning that child, at that time, and to that purpoſe. So when he was commanded to forſake his Countrey and goe to *Canaan*, this was perſonal, and could not be drawn into example: and no man could think that if he ſhould kill his Son, or leave his country, he ſhould be rewarded for his obedience. For the Commandements given to perſons are individuated as the perſons themſelves are, by time and place and circumſtances, and a ſingular nature, a particular Soul: So is the Commandement alſo; it is made circumſtantiate by all that is in and about it: and the reaſon of a man and his obſervation is the competent and final judge of theſe things; and no man is further required to look after ſignifications of that which is *notorious*. Others alſo are as certainly and confeſſedly general; ſuch as were the ten Commandements

to

to the Children of *Israel*; they were given to all the people, proclaim'd to the whole nation, expresly spoken to them all, exacted of them all, and under the same reason, and upon the same conditions. Now here are some proportions by which we may gues at others.

3. 2. For whatsoever related wholly to a person, or was determin'd by a circumstance, or was the relative of time, that passes no obligation beyond the limits and definitions of those circumstances. Upon this account all the Ceremonial and Judicial law of the Jewes have lost their obligation. The service that related to a Temple that is now destroyed, and was to be performed by a Priesthood that is expir'd, can no longer be a law of conscience. Thus the command which Christ gave that his Brethren should follow him into *Galilee* after the resurrection was wholly personal. The Apostles were commanded to untie another mans Asse, and without asking leave to bring him to Christ; the command was wholly relating to that occasion, and gives no man warrant to take another mans goods for pious uses without his leave. Circumstances are to actions like hedges to the grounds, they divide and defend, and assign every mans portion. And in these cases ordinary prudence is a sufficient guide.

4. 3. Whatsoever precept was given to many, if it was succeeded to by another that is inconsistent, or of a quite differing nature and circumstance, the former is by the latter declared to have been personal, relative, temporary and expir'd; & nothing of it can be drawn into direct obligation. When our Blessed Saviour sent out the 72. Disciples by two and two, he commanded them to goe without sword or shoes or bag, and that they should not goe into the way of the Gentiles. That these Commandements were temporary and relative to that mission appears by the following mission after Christs resurrection; by which they receiv'd command that they should goe into the way of the Gentiles, that they should teach all Nations. Therefore besides the special and nam'd permissions in this second legation, as that they might now wear a sword, that they might converse with Heathens, it is certain that those other clauses of command which were not expresly revok'd, are not obligatory by vertue of the first sanction and Commandement. And therefore if any man shall argue, Christ when he sent forth his Disciples to preach, commanded that they should not goe from house to house, but where they did first enter there to abide till the time of their permitted departure, therefore it is not lawful to change from one Church to another, from a less to a greater, from a poorer to a richer, will argue very incompetently and inartificially; for all the Commandements then given were relative to that mission: and if any thing were inserted of an universal or perpetual obligation, it is to be attended to upon some other account, not upon the stock of this mission and it's relative precepts.

5. 4. It is not enough to prove a precept to be perpetual and general, that it is joyned with a body of precepts that are so, though there be no external mark of difference. Thus we find in the ten words of *Moses* one Commandement for resting upon the seventh day from the Creation; it is there equally prescribed, but fortified with reasons and authority, more laboriously pres'd, and without all external sign of difference to distinguish the temporary obligation of this from the perpetuity of the other; and

yet all the Christian Church esteem themselves bound by the other, but at liberty for this day. But then we understand our liberty by no external mark appendent to the Sanction, but by the natural signature of the thing. The nature of the precept was ceremonial and typical; and though to serve God be moral and an Eternal duty, yet to serve him by resting upon that day, or upon any day, is not moral; and it was not enjoyn'd in that Commandement at all that we should spend that day in the immediate service of God and offices of religion; and it was declar'd by S. *Paul* to be a shadow of good things to come, and by our Bl. Lord it was declar'd to be of a yielding nature, and intended to give place to charity and other moral duties, even to religion it self, or the immediate service of God: for though the Commandement was a precept meerly of rest, and doing no labour was the sanctification of the day; yet that the Priests in the Temple might worship God according to the rites of their religion, they were permitted to work, *viz.* to kill the beasts of sacrifice, which Christ call'd prophaning of the Sabbath, and in so doing he affirms them to have been blameless. From hence, that is, from the natural signature of the thing commanded,& from other collateral notices, we come to understand that in the heap of moral and Eternal precepts, a temporary, transient and relative did lie: and the reason why there was no difference made, or distinctive mark given in the Decalogue, is because there was no difference to be made by that Nation to whom they were given; but as soon as that dispensation and period was to determine, then God gave us those marks and notes of distinction which I have enumerated, and which were sufficient to give us witness. So that if a whole body of Commandements be published, and it be apparent that most of them are general and eternal, we must conclude all to be so, untill we have a mark of difference, directly or collaterally, in the nature of the thing, or in our notices from God: but when we have any such sign, we are to follow it; and the placing of the precept in other company is not a sufficient mark to conclude them all alike. Thus it was also in the first mission of the Disciples (above spoken of) in which the body of precepts was temporary and relative; but yet when our Blessed Lord had inserted that clause [*freely ye have received, freely give*] we are not to conclude it to be temporary and onely relating to that mission, because it is plac'd in a body of relative Commandements: for there is in it something that is Spiritual, and of an eternal decency, rectitude and proportion; and we are taught to separate this from the other by the reproof which fell upon *Simon Magus*, by the separate nature of Spiritual things, by the analogy of the Gospel, by the provisions which upon other accounts are made for the Clergy and the whole state Ecclesiastical, upon the stock of such propositions which provide so fully, that they cannot be tempted by necessity to suppose God left them to be supplied by Simoniacal entercourses. If there be nothing in the sanction of the Commandements or any where else that can distinguish them, we must conclude them alike; but if there be any thing there or any where else that makes an indubitable or sufficient separation, the unity of place does not make an equal obligation.

6. 5. When any thing is spoken by Christ to a single person, or a definite number of persons, which concerns a *moral duty*, or a *perpetual rite* of universal concernment, that single person, or that little congregation, are the representatives of the whole Church. Of this there can be no question; 1. Because as to all moral precepts they are agreeing to the nature of man,

and

and perfective of him in all his capacities; and therefore such precepts must needs be as universal as the nature, and therefore to be extended beyond the persons of those few men. Now if it be inquir'd how we shall discern what is moral in the laws of God from what is not moral, we may be assisted in the inquiry by the proper measures of it which I have already described *. Those concern the matter of the Commandement; here we inquire concerning the different relation of the Commandement when the sanction is the same with these which are of particular concernment; that is, here we inquire by what other distinction besides the matter and nature of the thing we are to separate general precepts from personal, perpetual from temporal, moral from relative. And thus to inquire, is necessary in the interpretation of the laws of Jesus Christ; because there are some precepts moral and eternal, which nevertheless are relative to particular states under the Gospel.

* Lib. 2. Ch. 1. Rule 6. Nu. 65

But secondly, there are some precepts which are not moral, but yet they are perpetual and eternal, and concern every man and woman in the Christian Pale according to their proportion; I mean the precepts concerning the Sacraments and other rituals of Christianity. In order therefore to these Evangelical concerns it is to be noted, That whatsoever concerns every one by the nature of the thing, though it was at first directed personally, yet it is of universal obligation. Thus we understand all Christians that have the use of reason, that is, which are capable of laws, and have capacities to doe an act of memory, and symbolical representment, to be obliged to receive the Holy Communion: because although the precept of [*Doe this*, & *Drink this*] was personally directed to the Apostles, yet there is nothing in the nature of the Communion that appropriates the rite to Ecclesiasticks; but the Apostle explicates it as obliging all Christians, and it was ever so understood, and practic'd accordingly: all are equally concerned in the death of Christ, and therefore in the commemoration of it, and thanksgiving for it. Now thus farre is easy. But there are some interests that pretend some of the words to be proper to Ecclesiasticks, others common to the whole Church. I have already given account of the unreasonableness of the pretension in this Chapter *. But for the present I shall observe, that there being in this whole institution the greatest simplicity and unity of design that can be, the same form of words, a single Sacrament, the same address, no difference in the sanction, no variety or signs of variety in the appendages, in the parallel places, or in any discourse concerning it, to suppose here a difference, will so intricate this whole affair, that either men may imagine and dream of varieties when they please, and be or not be obliged as they list; or else if there be a difference intended in it by our Law-giver, it will be as good as none at all, he having left no mark of the distinction, no shadow of different Commandements, under several representations. If the Apostles were onely representatives of the Ecclesiastical state when Christ said, [*Drink ye all of this*] then so they were when Christ said, [*This doe in remembrance of me:*] the consequent is this, that either all are bound to receive the Chalice, or none but the Clergy are tied to eat the holy bread; for there is no difference in the manner of the Commandement; and the precept hath not the head of a man, and the arm of a tree, and the foot of a mountain, but it is univocal, and simple, and proper, and if there be any difference, it must be discovered by some clear light from without: for there is nothing within of difference, and yet without we have nothing but a bold affirmative.

* Rule 9. num. 7, 8, 9.

7. 6. When the univerſal Church does ſuppoſe her ſelf bound by any preceptive words, though they were directed to particular perſons, yet they are to be underſtood to be of univerſal concernment. Now this relies not onely upon the ſtock of proper probability, *viz.* that ſuch a multitude is the moſt competent interpreter of the difficulties in every Commandement; but there is in the Church a publick and a holy Spirit, aſſiſting her to guide, and warranting us to follow the meaſures of holineſs by which ſhe finds her ſelf oblig'd. For beſides that the queſtions of general practice are ſooner underſtood, as being like corn ſown upon the furrow, whereas queſtions of ſpeculation are like metals in the heart of the earth, hard to be found out, and harder to be drawn forth; beſides this, no intereſt but that of heaven and the love of God can incline the Catholick Church to take upon her ſelf the burden of a Commandement. If it were to decline a burden, there might be the more ſuſpicion, though the weight of ſo great authority were ſufficient to outweigh any contrary probability; but when ſhe takes upon her the burden, and eſteems her ſelf obliged by a Commandement given to the Apoſtles or to the Phariſees, or to any ſingle perſon among them, it is great neceſſity that enforces her, or great charity that invites her, or great prudence and caution for ſecurity that determines her, and therefore ſhe is certainly to be followed. Upon this account we are determined in the foregoing inſtance: and becauſe the Primitive Catholick Church did ſuppoſe her ſelf bound by the words of inſtitution of the Chalice in the Bleſſed Sacrament, therefore we can ſafely conclude the Apoſtles to be repreſentatives of the whole Church. *Ad bibendum omnes exhortantur qui volunt habere vitam*, ſaith S. *Auſtin*, All are called upon to drink of the Chalice, if they mean to have life eternal. For *indignum dicit eſſe Domino qui aliter myſterium celebrat quam ab eo traditum eſt*, ſaith S. *Ambroſe*; as Chriſt delivered it to the Apoſtles, ſo it muſt be obſerved by all: and therefore *Durandus* affirms that *all who were preſent did every day communicate of the cup becauſe all the Apoſtles did ſo, our Lord ſaying, Drink ye all of this.* For the Apoſtles were repreſentatives, not of the Clergy conſecrating (for they then did not conſecrate but communicate) but of all that ſhould be preſent. *Nam quæ Domini ſunt non ſunt hujus ſervi, non alterius, ſed omnibus communia*, ſaith S. *Chryſoſtome*, The precept of our Lord belonged not to this ſervant, nor to another, but to all. Now things that are of this nature, and thus repreſented, and thus accepted, become laws even by the very acceptation: and as S. *Paul* ſaid of the Gentiles, that they *having not the law become a law unto themſelves*; and our conſcience is ſometimes by meer opinion a ſtrict and a ſevere law-giver: when the Church accepts any precept as intended to her, (if not directly, yet) collaterally and by reflexion it paſſes an obligation; and then it will be ſcandalous to diſagree in manners from the cuſtome and ſevere ſentence of the Chriſtians, and to diſſent will be of evil report, and therefore at no hand to be done.

In Levit. qu. 57.

In 1 Cor. 11.

Rationale Divin. lib. 4. cap. 1.

In 1 Cor. 11. homil. 24.

8. 7. When a precept is addreſſed to particular perſons, and yet hath a more full, uſeful, and illuſtrious underſtanding, if extended to the whole Church, there it is to be preſumed it was ſo intended; and thoſe particular perſons are repreſentatives of the Church. S. *Auſtin* extends this Rule beyond precepts, even to priviledges and favours; *Quædam dicuntur quæ ad Apoſtolum Petrum propriè pertinere videantur, nec tamen habent illuſtrem intellectum niſi cum referuntur ad Eccleſiam, cujus ille agnoſcitur in figura*

figura gestasse personam, propter primatum quem in discipulis habuit. Some things are spoken which seem to relate particularly to the Apostle *Peter*, but yet they are better understood when they are applied to the whole Church. But this must needs be true in Commandements; for where nothing hinders it, the Commandement is supposed to be incumbent upon us; and therefore when the Commandement is better understood, and hath a more noble and illustrious sense, that is, promotes the interest of any grace remarkably, there the particular address must mean a general obligation.

9. 8. When any Commandement is personally addressed, and yet is inforced with the threatning of death eternal, that Commandement is of universal obligation. The reason is, because the Covenant of life and death is the same with all men; and God is no respecter of persons, and therefore deals alike with all: and upon this account, the words which our Blessed Saviour spake to some few of the Jews upon occasion of the Galilean Massacre, and the ruine of the Tower of *Siloam*, had been a sufficient warning and Commandement to all men, though besides those words there had been in all the Scriptures of the New Testament no Commandement of repentance. *Except ye repent, ye shall all likewise perish*] does mean that all the world should repent for the avoiding of the final and severest judgements of God.

10. But this Rule is to be understood onely in Commandements that are not relative to the differing states of men, but are of an absolute and indefinite nature. For where the Commandement is relative, and yet personally addressed or represented, there that person is the representative, not of all mankinde, but of that whole state and order. Thus when S. *Paul* said, *There is a necessity laid upon me, and woe is unto me, if I doe not preach the Gospel*, he was a representative of the whole order of the Curates of Souls. But when he said, *I press forward to the mark of the price of the high calling*, and *if by any means I may comprehend*, here he spake of his own person what is the duty incumbent upon all Christians, and he was a representative of the whole Church.

11. 9. When any good action is personally recommended upon the proposition of reward, it does not always signify an universal Commandement; but according as it was intended personally, so it signifies universally: that is, if it was a counsel to the person in the first address, it is a counsel to all men in the same circumstances; if it was a Commandement to one, it was a Commandement to all. Thus when Christ said to the young man in the Gospel, *Goe and sell what thou hast, and give to the poor, and thou shalt have treasure in heaven*; here the precept or the counsel is propounded under a promise: but because there is no threatning so much as implied, whether it be a command or no cannot be known from these words, nor from the appendant condition; because that which is not under command may be excellently good, and therefore fit to be incouraged and invited forward. But whether it was a precept or a counsel, that young man, though alone spoken to, was not alone intended; because the thing to which he was invited is an excellency and a spiritual worthiness in all men for ever that can and will receive it.

RULE XVIII.

Evangelical Lawes given to one concerning the duty of another doe in that very relation concern them both; but in differing degrees.

1. THis Rule I learn from S. *Paul*, and it is of good uſe in caſes of Conſcience relating to ſome Evangelical lawes. [*Obey them that have the Rule over you, and be ſubject; for they watch for your Souls, as they which muſt give an account: that they may doe it with joy, and not with grief; for that is unprofitable for you.*] Thus a Prelate or Curate of Souls is to take care that his Cure be chaſt and charitable, juſt and temperate, religious and orderly. He is bound that they be ſo, and they are more bound; but each of them for their proportion: and the people are not onely bound to God to be ſo, but they are bound to their Biſhop and Prieſt that they be ſo; and not onely God will exact it of them, but their Prelate muſt, and they muſt give accounts of it to their *ſuperior*, becauſe he muſt to his *ſupreme*; and if the people will not, they are not onely unchaſt or intemperate before God and their Biſhop, but they are diſobedient alſo. It is neceſſary that infants be baptized; this I ſhall ſuppoſe here, becauſe I have in * other places ſufficiently (as I ſuppoſe) proved it. Upon this ſuppoſition, if the inquiry be upon whom the neceſſity is incumbent, it will be hard to ſay, upon Infants, becauſe they are not capable of a law, nor of obedience; and yet it is ſaid to be neceſſary *for them.* If upon their parents, then certainly it is not neceſſary to the Infants; becauſe if what is neceſſary be wanting, they for whom it is neceſſary ſhall ſuffer: and therefore it will be impoſſible that the precept ſhould belong to others, and the puniſhment or evil in not obeying belong to the children; that is, that the ſalvation of infants ſhould depend upon the good will or the diligence of any man whatſoever. Therefore if others be bound, it is neceſſary that they bring them, but it will not be neceſſary that they be brought; that is, they who doe not bring them, but not they who are not brought ſhall ſuffer puniſhment. But therefore to anſwer this caſe, this rule is uſeful: It is neceſſary that the Parents or the Church ſhould bring them to baptiſme, and it is neceſſary that they be baptized; and therefore both are bound, and the thing muſt not be omitted. The Parents are bound at firſt, and the Children as ſoon as they can be bound; ſo that the precept leans upon two ſhoulders: if the firſt omit their ſhare in their time, there is no evil conſequent but what is upon themſelves; but when the children can chuſe, and can come, they muſt ſupply their parents omiſſion and provide for their own proper neceſſity. It is in this as in proviſions; at firſt they muſt be fed by the hand and care of others, and afterwards by their own labour and proviſions; but all the way they are under a neceſſity and a natural law of being provided for. * When S. *Paul* wrote to *Timothy* concerning the diſpoſitions requir'd in thoſe perſons who were to be Biſhops, it will not be very eaſy to ſay, of whom the defect of ſome of thoſe conditions ſhall be requir'd. A Biſhop muſt be the husband of one wife, that is, he muſt not marry while his firſt wife lives, though ſhe be

H. Ep. 1. 1. 17.

* Great Exemp. Diſc. of Bapt. of Infants: Liberty of Proph. Sect. 18. edit. in folio.

be civilly dead, that is, whether divorc'd, or baniſhed, or otherwiſe in ſeparation. But what if he be married to two wives at once? Many Chriſtians were ſo at firſt; many, I ſay, who were converted from Judaiſme or Gentiliſme, and yet were not compelled to put away either. If a Biſhop be choſen that is a Polygamiſt, who ſins? that is, who is obliged by this precept? Is the Biſhop that ordains him, or the Prince or people that chuſes him, or the Eccleſiaſtick himſelf that is ſo choſen? The anſwer to this inquiry is by conſidering the nature of ſuch a law, which the Italians call *il mandato volante*, a flying or ambulatory Commandement, in which the duty is divided, and ſeveral perſons have ſeveral parts of the precept incumbent on them. He that chuſes and he that ordains him are bound for their ſhare, to take care that he be canonically capable; but he that is ſo choſen is not bound to any thing but what is in his power; that is, he is not oblig'd to put away her whom he hath legally married, and her whom without ſin he can lawfully retain: but becauſe that which is without ſin, is not alwaies without reproach and obloquy, and that which may be innocent may ſometimes not be laudable, and of a Clergy-man more may be requir'd then of another that is not ſo; they who call him to the office are to take care of that, and he which is called is not charg'd with that. But then though he be not burdened with that which is innocent and at preſent out of his power, and ſuch a perſon may be innocently choſen, when they who chuſe him are not innocent; yet when any thing of the will is ingredient on his part, he muſt take care of that himſelf. He may be choſen, but he muſt not *ambire*, not ſue for it, nor thruſt himſelf upon it; for here begins his obligation: there can be no duty, but what is voluntary and can be choſen; but when a man can chuſe he can be oblig'd. I doe not here diſpute how far and in what caſes this law does oblige; for of that I am to give account in the chapter of Eccleſiaſtical Lawes: but the preſent inquiry is, who are the perſons concerned in the obligation. It was alſo taken care that a Biſhop ſhould not be a *Novice*: and yet S. *Timothy* was choſen a Biſhop at the age of five and twenty years, and he was innocent, becauſe it was the act of others, who came off from their obligation upon another account. But if he had deſir'd it, or by power or faction thruſt himſelf upon the Church with that Canonical inſufficiency, he had prevaricated the Canon Apoſtolical: for to ſo much of it he was bound; but in what he was paſſive, he was not concerned, but others were.

2. But this is to be limited in two particulars. 1. In what the Clerk is paſſive he is not oblig'd; that is, in ſuch matters and circumſtances as are extrinſecal to his office, and matter of ornament and decency. Thus if he have been married to an infamous woman which he cannot now help; if he be young, which he cannot at all help, but it will help it ſelf in time; if he have an evil and an unpleaſant countenance, if he be deformed; for theſe things and things of like nature, the chuſers and ordainers are concerned; but the Clerk may ſuffer himſelf to be choſen, the law notwithſtanding. But if the Canonical impediment be ſuch as hinders him from doing of his future duty, there he may not ſuffer himſelf to be choſen; and if he be, he muſt refuſe it. The reaſon of the difference is plain: becauſe the Electors and Ordainers are concerned but till the Election is paſt; but the Elected is concerned for ever after: therefore although there may be many worthineſſes in the perſon to be choſen to outweigh the

external insufficiency and incapacity, and if there be not, the Electors are concerned, because it is their office and their act, and they can hinder it, and therefore they onely are charg'd there; yet for ever after the Elected is burden'd, and if he cannot doe this duty, he is a sinner all the way; *he is a Wolfe to the Revenue and a Butcher to the Flock.*

3. 2. Though in matters of decency and ornament the person to be chosen is not so obliged but that he may suffer himself to be chosen if he be otherwise capable, because those things which are not in his power are not in his duty, yet even for these things he also is oblig'd afterwards; and he is bound not to doe that afterwards, which if it was done before, others were obliged not to chuse him. If a person was divorced before and married again, he may accept of a Bishoprick; but if he doe so afterwards, he is guilty of the breach of the Commandement: for he must not goe back to that door where he might not enter, but then he is wholly oblig'd; he alone, because then it is his own act, and he alone can hinder it. I say he must not goe back.

4. But if he be thrust back to that door, where if he had stood at first he ought not to have been let in; he is no more oblig'd at last then at first: he that does not govern his house well, and hath not his children in subjection, may not (by the Apostles rule) be chosen; but when he is a Bishop, and fals into the calamity of having evil and rebellious children, this is no impediment to his office directly, and does not so much as indirectly pass upon him any irregularity.

5. But then as to the rule it self, this instance is fit to explicate it. For Parents are tied to rule their Children, Masters to govern their Servants; but Children are also oblig'd to be governable, and Servants must be obedient. For in relative duties every man must bear his own burden, and observe his own share of the Commandement.

Rule XIX.

Custome is no sufficient interpreter of the Lawes of Jesus Christ.

1. *Truth* and the *Divine Commandements* need no prescription, but have an intrinsick warrant, and a perpetual abode; but that which is warranted by Custome, hath but an accidental obligation, and is of humane authority. The Lawes of Christ are wrought to be the parents of Custome; but Custome cannot introduce a divine law or obligation: our Customes ought to be according to Christs Commandement; but from our Customes we cannot conclude or inferre that this is the will or Commandement of Christ. This Rule is *Tertullians*. *Veritati nemo præscribere potest, non spatium temporum, non patrocinia personarum, non privilegium regionum. Ex his enim fere consuetudo initium ab aliqua ignorantia vel simplicitate sortita, in usum per successionem corroborata; & ita adversus veritatem vindicatur. Sed Dominus noster Christus Veritatem se, non Consuetudinem, cognominavit. Quodcunque adversus veritatem sapit hoc erit hæresis, etiam vetus consuetudo.*

De Virgin. veland.

No

No man can prescribe to truth, that is, to any proposition or Commandement Evangelical. *For Customes most commonly begin from ignorance or weakness, and in time get strength by use, till it prevail against right. But our Lord Christ does not call himself Custome, but Truth. Whatsoever is against Truth, though it be an old Custome, is Heresy, notwithstanding its long continuance.*

2. The purpose of this Rule is not to bar Custome from being of use in the exposition of the sense of a law or doctrine. For when it is certain that Christ gave the law, and it is uncertain what sense was intended to the law, Custome is very useful in the interpretation; that is, the Customes of the first and best Ages of the Church: and then the longer the Custome did descend, still we have the more confidence, because we have all the wise and good men of so many Ages concurring in the interpretation and understanding of the law. Thus the Apostle gave the Church a Canon, *that we should in all things give thanks*: the Custome of the Ancient Church did in pursuance of this rule say a short prayer, and give thanks at the lighting up of Candles. The history of it I have from S. *Basil. Visum est patribus nostris beneficium vespertini luminis non silentio suscipere, sed statim ut apparuit gratias agere*, They said grace for their light as well as for their meat. This Custome was good; for it was but the particular instance of a general duty. Cap. 29. de Spir. S.

3. But then Custome is to be allowed but as one Topick, not as all: it is the best argument when we have no better; but it is the most unartificial of all arguments; and a competent reason to the contrary is much to be preferred before a great and long prescribing Custome. Both these propositions are severally affirm'd by the Fathers of the Church. The first by S. *Austin* in his Epistle to *Casulanus*, *In his rebus de quibus nihil certi statuit Divina Scriptura, nobis populi Dei & olim justi, statuta Majorum pro lege tenenda sunt: & sicut prævaricatores legum Divinarum, ita contemptores consuetudinum Ecclesiasticarum coercendi sunt.* The holy Catholick Church is certainly guided by the Spirit of God, and therefore where the question is concerning any thing that is not clear in Scripture, the Customes of the Catholick Church are not to be despised; for it is to be presum'd (where the contrary is not proved) that she piously endeavours, and therefore is graciously assisted in the understanding of the will and Commandements of her Lord: and in this sense, Custome is the best interpreter, because there is no better, and no clearer light shining from any Angle.

4. Custome can thus in cases of destitution of other Topics declare the meaning of a law; but Custome of it self cannot be the interpreter of the will of Christ, or a sufficient warrant of a law, or immediately bind the Conscience as if it were a signification of the Divine pleasure: much less ought it to be oppos'd to any words of Scripture or right reason and proper arguments deriv'd from thence. And that is the other thing which I also said is taught us by the Fathers of the Church. So S. *Cyprian*, *Frustra quidam qui ratione vincuntur consuetudinem nobis opponunt, quasi consuetudo major sit veritate, aut non fuerit in Spiritualibus sequendum si melius fuerit à S. Spiritu revelatum, In vain is custome oppos'd to reason, as if it were greater then truth: Not Custome, but that which is best, is to be followed by Spiritual* Ad Jubaian

tual perſons, if any thing better then Cuſtome be revealed by the Spirit of God.

5. All *good Cuſtomes* are good warranties and encouragements; but whether they be good or no is to be examin'd and prov'd by the Rule and by the Commandement: and therefore the cuſtome it ſelf is but an ill indication of the Commandement; from whence it ſelf is mark'd for good, or elſe is to be rejected as reprobate and good for nothing. *Conſuetudo authoritati cedat: pravum uſum lex & ratio vincat: cum verò nec ſacris canonibus nec humanis legibus conſuetudo obviare monſtratur, inconcuſſa ſervanda eſt*, ſaid *Iſidore*, *Let cuſtome yeeld to authority, to law and to reaſon; but when it agrees with the laws of God and of man, let it be kept inviolate.*

In Synonymis l. 2.

6. When Cuſtome is conſonant to ſome other inſtrument of probation, when it is apparently pious, and reaſonable, and of the analogy of faith, it is an excellent corroborative and defenſative of truth, and warrant to the conſcience; but when it ſtands alone, or hath an ill aſpect upon other more reaſonable and effective ways of perſwaſion, it is very ſuſpicious and very dangerous, and is commonly a very ill ſign of an ill cauſe, or of corrupted manners. *Cedrenus* tells that *the Patriarch Abraham was wont to ſay that there is great difference between truth and cuſtome*; that *being very hard to be found*, this, *whether good or bad, being obvious to every eye: and which is worſe, by following cuſtome a man gets no comfort if it be in the right, and no great ſhame if it be in the wrong, becauſe he relies not upon his own reaſon, but the judgement of old men that liv'd long agoe, who whether they judged wiſely or fooliſhly muſt appear by ſome other way: but this he will finde, that it will be very hard to leave it, though it be never ſo fooliſh and ridiculous.*

Hiſt. compend. ſive in initio, pag. 25.

7. Of what obligation in matters of practice, and of what perſwaſion in the inquiries of truth Eccleſiaſtical Cuſtomes are to be eſteem'd, I ſhall afterwards diſcourſe when I treat of Eccleſiaſtical Laws: but that which I would perſwade for the preſent is, that the Cuſtomes and uſages of the world are but an ill Commentary on the Commandements of our Bleſſed Lord.

8. 1. Becauſe evil is crept into moſt of the manners of men; and then a cuſtome is moſt likely to tranſmit her authority to that which ought to be deſtroyed. *Inter cauſas malorum noſtrorum, quod vivimus ad exempla, nec ratione componimur, ſed conſuetudine abducimur. Quod ſi pauci facerent, nolumus imitari: quum plures facere cæperunt, quaſi honeſtius ſit quia frequentius, ſequimur, & recti apud nos locum tenet error, ubi publicus factus eſt.* So *Seneca* complain'd. *It is one great cauſe of our miſchiefs, that we are not led by truth, but led away by cuſtome; as if a thing were the honeſter becauſe it is frequent; and error becomes truth when it is common and publick.* Excellent therefore was that ſaying of Pope *Nicolas* the firſt, *Parvus numerus non obeſt ubi pietas abundat: magnus non prodeſt ubi impietas regnat*, *If right and Religion be on our ſide, the ſmalneſs of our company is nothing: but a multitude cannot juſtify impiety.*

Epiſt. 58.

9. 2. Cuſtome in moral practices becomes law to men by preſſing upon their modeſty, and by outfacing truth and piety; ſo that unleſs the cuſtome have warranty from the law, it hath the ſame effect againſt a law as for

for it; and therefore in such cases is at no hand to be trusted, but at every hand to be suspected, lest it make it necessary that men become vicious. The customes of the German and neighbour Nations so expound the laws of Christ concerning temperance, that if by their measures it be defined, it looks so like intemperance, as milk to milk; and the common customes of the world expound all the laws of the Blessed Jesus so as to be truly obligatory at no time but in the danger, or in the article of death: but certainly it is but an ill gloss that evacuates all the holy purposes of the Commandement; and at the day of Judgement, when we shall see numberless numbers of the damned hurried to their sad sufferings, it will be but an ill apology to say, I did as all the world almost besides me, by whose customes I understood the laws of the Gospel to a sense of ease and gentleness, and not by the severity of a few morose Preachers. *Poggius* tells of a Neapolitan Shepherd, that against *Easter* going to Confession, he told his Confessor with a tender conscience and great sorrow of heart that he had broken the holy Fast of Lent, by chance indeed, but yet with some little pleasure; for when he was pressing of a new Cheese, some of the whey start from the vessel and leap'd into his mouth, and so went into his stomack. The Priest smiling a little at the phantastick conscience of the man, ask'd him if he was guilty of nothing else. The Shepherd saying, he knew of nothing else that did or ought to trouble him; his Confessor knowing the customes of those people upon the Mountains of *Naples*, ask'd him if he had never robb'd or kill'd any strangers passengers. O yes, replied the Shepherd, I have often been at that imploiment; but that we doe every day, and always did so, and I hope that is no sin: but the cheese, the forbidden cheese stuck in his stomack, because every one did abominate such meat upon fasting-days: onely the custome of killing and stealing had hardned his heart and forehead till it was not perceiv'd.

——dedit hæc contagio labem, Juven. Sat. 2
Et dabit in plures: sicut grex totus in agris
Unius scabie cadit, & porrigine porci,
Uváque conspecta livorem ducit ab uva.

10. Evil manners begin from one evil man, or from one weak or vicious principle, and pass on to custome, and then to be vertuous is singularity, and it is full of envy; and concerning the customes of the world it is ten to one if there be not some foulness in them. The advice therefore of S. *Cyprian* is a good *compendium* of this enquiry. *Consuetudo quæ apud quosdam irrepserat, impedire non debet quo minus veritas prævaleat & vincat; nam consuetudo sine veritate vetustas erroris est: propter quod relicto errore sequamur veritatem; scientes quod veritas vincit, veritas valet & invalescit in æternum, & vivit & obtinet in secula seculorum.* Custome ought not to prevail against any truth; but Truth which is eternal will live and prevail for ever and ever. Custome without truth is but a prescription of falshood and irregularity. Ad Pompei.

Question.

11. *Upon occasion of this argument it is seasonable, and of it self a very useful inquiry, Whether the Customes of Jews and Gentiles, or indefinitely of many Nations, be a just presumption that the thing so practic'd is agreeable to the law of Nature, or is any ways to be supposed to be consonant to the will of God.*

Answer.

Anſwer.

12. To this, ſome of eminence in the Church of *Rome* anſwer affirmatively; and are ſo farre from bluſhing, that many of their rites are derived from the cuſtomes of Heathens, that they own it as a thing reaſonable, and prudent, and pious, according to the doctrine and practice of *Gregory* ſurnamed *Thaumaturgus*, who (as S. *Gregory Nyſſen* reports) that he might allure the common people to the love of Chriſtianity, gave way that thoſe dances and ſolemne ſports which they celebrated to the honour of their idols ſhould be ſtill retain'd, but diverted to the honour of the Saints departed: and *Baronius* ſuppoſes it to be no other then as the Iſraelites taking of the ſilver and braſs from the Ægyptians, and imploying it in the ſervice of the Tabernacle. And in particular, the cuſtome of burning candles to the honour of the Virgin *Mary* he imputes to the ſame principle, and owns it to be of Heatheniſh extraction. The ſame alſo is in divers other inſtances avowed by [a] *Polydore Virgil*; by *Fauchet* [b] in his Books of the Antiquities of *France*; by *du Choul* [c], *Blondus* [d] and *Bellarmine* [e], who brings this as an argument for the doctrine of Purgatory, becauſe the Jews, the Turks, and the Heathens did believe ſomething of it; it being very likely, that what almoſt all Nations conſent in, derives from the natural light of reaſon which is common to all men: and upon this very thing *Cardinal Perron* [f] boaſts in the behalf of the Service in an unknown tongue; that not onely the Greeks, and many other Chriſtian Churches, but even all Religions, the Perſians and the Turks uſe it.

Orat. de vita S. Gregor. Thaum.

Annal. A.D. 44. §. 88. & A. D. 58. §§. 76, 77. & in Martyrol. Febr. 2.

a De inventor. rerum lib. 5. cap. 2.
b Lib. 2. cap. 9. & lib. 5. de origin. dignit. Gall. cap. 17.
c Lib. de religione Romanorum in fine.
d In lib. 1. & 2. de Roma triumphante.
e Lib. 1. de purgatorio cap. 7. §. Tertia ratio.
f Adv. Regem Jacobum in prima inſtantia cap. 1.

This pretence therefore is fit to be conſidered.

1. Therefore I anſwer, That it is true that the Primitive Church did ſometimes retain ſome ceremonies which the Heathens us'd; but they
13. were ſuch ceremonies which had no relation to doctrine, but might be made apt for order and decent miniſteries external. Such were the garments of the Prieſts, lights, girdles, faſts, vigils, proceſſions, poſtures, feſtivals and the like: and they did it for good reaſon and with good effect; that the people who were moſt of all amuſed with exteriour uſages, finding many of their own cuſtomes adopted into Chriſtianity, might with leſs prejudice attend to the doctrines of that perſwaſion which ſo readily complied in their common ceremonies. This did well enough at firſt, and was a prudent imitation of the practice of our great Maſter, who that the Jews might the eaſier paſs under his diſcipline and inſtitution, made the paſſage as ſhort, and the difference as little as could be; for ſince he would retain but two external miniſteries in his whole inſtitution, he took thoſe rites to which the Jews had been accuſtomed; onely he made their Baptiſms Sacramental and effective of great purpoſes, and ſome of the Paſchal rites he conſecrated into higheſt myſtery; retaining apparent footſteps, or rather bodies of their Government and Diſcipline Eccleſiaſtical. And this proceeding we find own'd and juſtified by S. *Auſtin* againſt *Fauſtus* the Manichee, and S. *Hierome* againſt *Vigilantius*, and *Ephraim Syrus* of old; and of later times by [a] *Alcuinus*, [b] *Amalarius*, and by [c] *Gratian*; and who pleaſe to ſee it more largely pleaded for may read *Mutius Panſa* his *Oſculum Chriſtianæ & Ethnicæ philoſophiæ*, and *Nicolaus Mont-Georgius de Moſaico jure enucleando*: and that it may be reaſonable from the ſervices of ſuch men from whom we juſtly abhorre to borrow ſome uſages, is excellently diſcours'd of by Mr. *Hooker* in his fourth Book of Eccleſiaſtical Polity.

a De divinis Offic.
b De offic. Eccleſ.
c De conſecrat.

But

14. But however this might fit the neceſſities and circumſtances of the infant ages of the Church, yet they ought not to be done eaſily, but ever with very great caution. For though it ſerv'd a preſent turn, yet it made Chriſtian Religion leſs ſimple and leſs pure; but by becoming a miſcellany it became worſe and worſe. It was or might be at the firſt a *complying with the infirmities of the weak*, a purſuance of S. *Pauls* advice ſo to doe; but when theſe weak perſons are ſufficiently inſtructed in the Religion, and that to diſſent is not infirmity, but peeviſhneſs and pride, or wilfulneſs, all compliance and condeſcenſion is no longer charity, but gives confidence to their error. For when the reaſonable diſcourſes of the Religion will not ſatisfy the ſuppoſed weak brother, he that complies with him confeſſes his the better way; and when learned men follow the ignorant to ſuperſtition, they will no longer call it compliance and condeſcenſion, but duty, and neceſſity, and approbation. A good man will goe a little out of his road to reduce the wandring traveller; but if he will not return, it will be an unreaſonable compliance to goe along with him to the end of his wandring. And where there is any ſuch danger (as in moſt caſes it is) we have the example of God himſelf and his Commandement expreſly given to the children of *Iſrael*, that they ſhould abſtain from all communion with the Gentiles their neighbours even in things indifferent; and that they ſhould deſtroy the very monuments and rituals, and the very materials of their Religion, leſt by ſuch a little compliance they be too farre tempted. And thus alſo they did ſometime in the Primitive Church; for *Tertullian*, becauſe the Gentiles us'd in the ſervices of their idols to ſit down immediately after they had prayed, would not have the Chriſtians doe ſo, though the ceremony of it ſelf was wholly indifferent. And when many Chriſtian Churches had taken ſome Gentile ceremonies into their *Chriſtmas* ſolemnity, being occaſioned by the Circumciſion of Chriſt falling on the Calends of *January*, or New-years day, they were not onely forbidden in the Council of *Auxerre*, but the Church did particularly appoint private Letanies, proceſſions, and auſterities to be uſed for three days within the twelve of *Chriſtmas*, *ad calcandam Gentilium conſuetudinem*, to deſtroy and countermine the ſuperſtitious cuſtomes of the Heathen, which by the compliance and fondneſs of ſome Chriſtians had diſhonoured the excellency and innocency of the *Chriſtmas* feſtivity; as we finde noted by the Fathers of the Synod of *Turi*. Sometimes there had been reaſon to retain theſe things: but when in the days of Perſecution ſome weak-hearted Chriſtians did ſhelter themſelves under the cover of ſuch ſymbolical ceremonies, and eſcap'd the confeſſion of Chriſtianity by doing ſome things of like cuſtome, or when the folly and levity of Chriſtians by theſe inſtruments paſs'd on to vanity or ſuperſtition, then the Church with care did forbid the retaining of Heatheniſh cuſtomes, which had been innocent but for ſuch accidents. In theſe things the Church may uſe her liberty, ſo that *all things be done to edification.*

Deuter. 7. 5 & 12. 4

De orat. cap. 12

Concil. Antiſiodor. c. 1.

Concil. Turon. 2. Can. 17.

15. 2. But if the cuſtomes and rites be ſuch as are founded upon any point of doctrine, whatſoever it be that derives from Pagan cuſtomes muſt alſo be imputed to their doctrines; and then to follow their cuſtomes, will be alſo to mingle the Religions, to blend *light and darkneſs*, and to *joyn Chriſt with Belial.* It had been a material objection which *Fauſtus* the *Manichee* made againſt the Catholicks, that they did remove the worſhip from idols, and give it to Saints and Martyrs. S. *Auſtin*, who was to anſwer

the Objection, could not juſtify, but did deny the fact, as to that inſtance and ſome few others: for the cuſtome of the Nations in ſuch caſes was no argument, but an objection. From theſe premiſſes it will appear to be but a weak pretence to ſay, that if many Nations and Religions agree in ſuch a ceremony, or ſuch an opinion, it will be ſuppos'd to come from the light of Nature. For there are not many propoſitions in all which Nature can teach; and we ſhould know but a very few things, if we did not goe to School to God, to Tutors, to experience, and to neceſſity. This pretence would not onely eſtabliſh Purgatory, but the worſhip of Images, and the multitude of gods, and idololatrical ſervices, and very many ſuperſtitions, and trifling obſervances, and confidences in dreams, and the ſacrifice of beaſts, and many things more then can well become or combine with Chriſtianity. When not onely ſome Nations but all agree in a propoſition, it is a good corroborative, a good ſecond to our perſwaſions, but not a principal; it gives *advantage*, but not *eſtabliſhment*, *ornament*, but not *foundation* to a truth: which thing if it had been better obſerved by the Chriſtians who from the Schools of *Plato*, *Chryſippus*, *Ariſtotle* and *Epicurus* came into the Schools of *Chriſt*, or from the Temples of *Jupiter* and *Apollo* into the ſervices of the *Church*, Chriſtianity had been more pure and unmingled then at this day we finde it. The ceremony of ſprinkling Holy-water was a Heatheniſh rite, us'd in the ſanctifications and luſtrations of the Capitol, as *Alexander ab Alexandro* relates: but becauſe this is not a ceremony of order or circumſtance, but pretends to ſome real effect, and derives not from Chriſt or his Apoſtles, but from the Gentiles, and relies upon the doctrine of the effect of ſuch ceremonies, it is not juſtifiable. Burning candles by dead bodies was innocent and uſeful to them that attended in the Vigils before interrement; but when they took this from the cuſtome of the Heathens, who thought thoſe lights uſeful to the departed ſouls, they gave a demonſtration by the event of things that they did not doe well: for the Chriſtians alſo deriv'd a ſuperſtitious opinion along with the ceremony, and began to think that thoſe lights did entertain the ſouls in thoſe cemeteries; and this produc'd the decree of the Council of *Eliberis*, that wax candles ſhould not be burnt in the day time, *leſt the ſpirits of the dead be diſturb'd.* Now when any falſe principle is in the entry of the ceremony, or attends upon it, or any ſuperſtition be in the progreſs or in the end of it, any ſcandal, or any danger, ſuch cuſtomes are not at all to be followed, ſuch rituals are not to be imitated or tranſcribed: that is, No Cuſtome is a warranty for any evil.

Can. 34.

Rule XX.

The meaſure of perfection and obedience expected of Chriſtians, is greater then that of the Jews, even in moral duties common to them and us.

1. IT matters not whether Chriſts law have in it more precepts then were in the law of *Moſes*: our work is ſet before us, and we are not concerned how much they had to doe; and in moſt of the inſtances which are, or are ſaid to be new Commandements, it may alſo be ſaid of them as it was

was by the Apostle concerning Charity, *This is a new Commandement*, and *this is an old Commandement*; there being, at least in most instances, an obligation upon them to doe what was of it self good and perfective of humane nature, and an imitation of the Eternal law of God, a conformity to the Divine perfections. This is true as to the material part: but then because that which was an *old Commandement* is also made a *new Commandement*, and *established upon better promises*, and endeared by new instances of an infinite love, and we our selves are enabled by many more excellent Graces, and the promise of the Holy Spirit is made to all that ask him; it is infinitely reasonable to think, that because this new Commandement superadds nothing new in the matter, it must introduce something new at least in the manner, or measure of our obedience.

2. They and we are both of us to pray; but we are commanded to pray *fervently*, frequently, *continually*. They were to be charitable, and so are we: but they were tied to be so to their friends and to their neighbours, but we to our enemies; and though in some instances they were tied to be so, yet we are bound in more; more men are our Neighbours, and more are our Brethren, and more is our duty. They were to doe them no hurt; but we must doe them good. They were to forgive upon submission and repentance; but we must invite them to repentance, and we must offer pardon. They were to give bread to their needy Brother; but we are in some cases to give him our lives. They were to love God *with all their Souls, and with all their strength*: and though we cannot doe more then *this*, yet we can doe more then *they* did; for our strengths are more, our understandings are better instructed, our shield is stronger, and our breast-plate broader, and our armour of righteousness is of more proof then theirs was. *Dares* and *Entellus* did both contend with all their strength; but because *Entellus* had much more then the other, he was the better champion.

3. 1. This Rule does principally concern *Christian Churches* and Communities of men; that their lawes be more holy, that the condition of the Subjects be more tolerable, that warres be not so easily commenc'd, that they be with more gentleness acted, that the lawes of Christ be inforc'd, that malefactors be not permitted, that vice be more discouraged, that nothing dishonourable to Religion be permitted, that the Kingdome of Christ in all capacities be advanced, that his Ministers be honour'd and maintain'd according to the excellency of the present Ministery and the relation to Christs Priesthood, that the publick and honorary Monuments of it be preserv'd, and vertue properly encouraged, and great publick care taken for the advantageous Ministery of Souls, which are the proper purchase of our Redeemer, that in all things Christ may be honour'd by us more then *Moses* was by them, and that God through Jesus Christ be more glorified then he was in the Levitical government.

4. 2. This also concerns *single persons*; that they certainly abstain from all those imperfections of duty which were either permitted in the Law, or introduc'd by the commentaries of their Doctors, or inferr'd by the general declination of their first piety, and the corruption of manners. The Jewes would not take usury of a needy Jew, but of a needy stranger they would: but we must consider them with a more equal eye; we must be charitable to all; for to a Christian no man that needs and asks him is a stranger.

The Jewes had great liberty of divorces indulg'd to them; a Christian hath not the same: but in that in which he is permitted, he is not to be too forward.

5. 3. In matters of duty a Christian is to expound his obligation to the advantage of piety, to security of obedience, to the ease of his Brother, and the pressing upon himself; that whatever be the event of his temporal affairs, he secure his Spiritual interest, and secure justice though to the loss of his money, and in all doubts determine for duty rather then for interest: the Jewes went not beyond the letter of the Commandement.

6. 4. In *the interior acts of vertue* a Christian is to be more zealous, forward, operative and busy, frequent and fervent; he must converse with God by a more renewed entercourse, give himself no limits, alwaies striving to goe forward, designing to himself no measure but infinite in the imitation of the perfections of God, and the excellencies of his most Holy Son.

7. 5. In *the exteriour acts of vertue* Christians must according to their proportion be asham'd to be outdone by Jewes, not onely in what they did in obedience, but also in what they in good and prudent zeal for the law of *Moses* did expend or act. I say, what they did act in good and prudent zeal for their Law. Thus they adorn'd their Temple, freely gave contributions for it's support and ornament, lov'd all of their perswasion, endeavour'd to get proselytes; and therefore are in these things not onely to be imitated, but to be outdone, because all this was a prudent and zealous prosecution of their duty. But when in zeal they did not onely love their own Sect, but hate and persecute and were uncivil to all of another perswasion, this was *Zeal* indeed; but it was folly too and a work of the flesh, and therefore not to be imitated by Christians who are the servants of the Spirit.

8. 6. Where Christians are *left to their liberty* in those instances in which the Jewes were bound, Christians ought *freely* to doe as much as they did *by constraint* and *by necessity*: for then properly we doe more then they, when we voluntarily chuse what was impos'd on them: it is not *more work*, but it is *more love*. Thus the Jewes were bound to pay tiths to the *Levites*; we are commanded to maintain them honourably: but because tiths is not in the Commandement to us, we ought to supply the want of a Command by the abundance of love, and in this there is no abatement to be made but by what did concern the nation in some special relation, necessity or propriety. God was pleas'd to make the more ample provision for the tribe of *Levi*, because they had no inheritance amongst their brethren; they had no portion in the division of the land. Now because the Christian Clergy have a capacity of lands and other provisions, there is not all the same reason in the quantity of their appartiment as was in the assignation of the Levitical portion. Now when any such thing can intervene and enter into consideration, it must be allowed for in the proportions of increase which are demanded of the Christian. The Jewes gave great contribution to the Temple; but it was but one, and therefore it is not to be expected that every Christian Church in such a multitude should be adorn'd and rich like the Temple of Jerusalem.

7. Where

9. 7. Where Jewes and *Christians are equally left to their liberty*, it is infinitely reasonable & agreeable to the excellency of the Religion, that Christians should exceed the Jewes. Thus we find that at the erecting of the Tabernacle the Jewes brought silver and gold and other materials till they had too much, and the people were commanded to cease and bring no more. Now when an occasion as great in it self and more proportionable to the religion calls upon us for an offering and voluntary contribution, if the instance be in a matter as proportionable to the Gospel as that was to the law of *Moses*, the excellency of the religion and the dignity of the work and the degree of our grace and love require of us to be more ready and more liberal in equal proportions.

10. 8. In those graces which are proper to the Gospel, that is, such which are the peculiar of Christians, literally and plainly exacted of us, and but obscurely insinuated, or collaterally and by the consequence of something else required of them, it cannot be but that the obedience which we owe should be more ready, the actions more frequent, the degrees more intense; because every advantage in the Commandement hath no other end but to be an advance of our duty; and what was obscurely commanded can be but dully paid; while the Christians duty must be brisk and potent and voluntary and early and forward and intense, in proportion to greater mercies receiv'd, to a better law, to a more determin'd conscience, to a clearer revelation, to more terrible threatnings, and to the better promises of the Gospel: all which are so many conjugations of aide, and instances of a mighty grace. And therefore Christians are to be more humble, more patient, more charitable, more bountiful, greater despisers of the world, greater Lords over all their passions, then the Jewes were oblig'd to be by the consequences of their law.

11. 9. When this comes to be reduc'd to practice in any particular inquiry of Conscience, every Christian is not to measure his actions by proportion to the best, and the rare persons under the Mosaick law, in their best and heroick actions. For who can doe more then *David* did after he had procured the waters of *Bethlehem* to cool his intolerable thirst, but to deny his appetite, and refuse to drink the price of blood? who can doe more then he did and would have done toward the building of the Temple? who can give better testimony of duty to his Prince then he did to *Saul*? who can with more valour and confidence fight the battels of the Lord? who can with more care provide for the service of God, and the beauty and orderly ministeries of the Tabernacle? who can with more devotion compose and sing hymnes to the honour of God? In these and such as these *David* was exemplary; and so was *Moses* for meekness, and *Job* for patience, and *Manasses* for repentance, and *Abraham* for faith, and *Jacob* for simplicity and ingenuity, and *Enoch* for devotion: these in their several periods before and under the Law were the great lights of their Ages, and set in eminent places to invite, forward the remiss piety of others, alluring them by the beauty of their flames to walk in their light and by their example. And it is well if Christians would doe as well as these rare personages in their several instances. But as some women are wiser then some men; and yet men are the more understanding Sex, and have the prerogative of reason and of government: so though some persons of the old religions were better then many of the new (of the religion of Jesus Christ)

yet the advantage and the increaſe muſt be in the Chriſtian Church, which muſt produce ſome perſons as exemplary in many graces as any of theſe hath been in any one.

12. 10. But then as to ſingle perſons; 1. Every man muſt obſerve thoſe increaſes of duty which our Bleſſed Saviour either by way of new Sanction, or new interpretation, ſuperadded to the old, in the Sermon upon the Mount.

2. Every man muſt doe in proportion to all the aides of the Spirit which the Goſpel miniſters, all that he can doe: which proportion if he obſerves, it will of it ſelf amount to more then the uſual rate of *Moſes* law, becauſe he hath more aides.

3. He muſt be infinitely remov'd from thoſe ſins to which they were propenſe, and which made God to remove them out of his ſight; ſuch as were idolatry, the admitting of ſtrange Gods, infidelity, obſtinacy, hypocriſy, and ſenſual low appetites: becauſe theſe were the crimes of an ignorant uninſtructed people in reſpect of what the Chriſtian is; and for a Chriſtian to be an idolater, or eaſily divorc'd, or incredulous, as they were, is therefore the more intolerable, becauſe it is almoſt remov'd from his poſſibilities; he can ſcarce be tempted to ſuch things who knowes any thing of the doctrine of the Goſpel.

4. There is no other *poſitive meaſures* of his duty, but that which can have no meaſure it ſelf, and that is *love*; and a Chriſtian muſt therefore exceed the righteouſneſs of the Subjects of *Moſes* law, becauſe they muſt doe all their works in faith and love: *in faith*, to make them accepted, though they be imperfect; *in love*, to make them as perfect as they can be. Now he that loves will think every thing too little; and he that thinks ſo will endeavour to doe more, and to doe it better: and Chriſtians that have greater experience of God, and underſtand the nature of Charity, and doe all of them explicitely and articulately long after the glories of an Eternal love, and know that all increaſe of grace is a proceeding towards glory, need no other argument to inforce the duty, and no other meaſure to deſcribe the duty of this Rule, but to reflect upon the ſtate of his religion, the Commandements, the endearments, the aids, the example, the means: all which are well ſumm'd up by S. *John*, *Beloved, we are the ſons of God, and it does not yet appear what we ſhall be; but we know that when he ſhall appear, we ſhall be like him; for we ſhall ſee him as he is: And every man that hath this hope, purifieth himſelf as God is pure.* That is, we are for the preſent children of God by adoption, ſeal'd with his Spirit, renewed by regeneration, juſtified by his grace, and invited forward by moſt glorious promiſes, greater then we can underſtand. Now he that conſiders this ſtate of things, and hopes for that ſtate of bleſſings, will proceed in duty and love toward the perfections of God, never giving over till he partake of the purities of God and his utmoſt glories.

1 Joh. 3. 2, 3.

I adde no more but this, That in the meaſures of the practice of this Rule there is no difficulty, but what is made by the careleſs lives of Chriſtians and their lazy and unholy principles. At the rate as Chriſtians uſually doe live, it is hard to know how and in what inſtances and in what degrees our obedience ought to be more humble and more diligent then that of *Moſes* diſciples. But they that love, will doe the thing, and ſo underſtand the Rule. *Obedite, & intelligetis, Obey, and ye ſhall underſtand.*

Concerning

Concerning the interpretation of the Laws of the most Holy Jesus, I know of no other material consideration here to be inserted. Onely there are several pretences of exterior and accidental means of understanding the Laws of Christ, which because they are deriv'd from the authority or from the discourses of men, they are more properly to be considered in the Rules concerning Humane Laws, which is the subject of the next Book, where the Reader may expect them.

The end of the Second Book.

Z EARLY X
1660 ENGLISH
FOLIO
#120645

REPRODUCED FROM THE COPY IN THE

HENRY E. HUNTINGTON LIBRARY

FOR REFERENCE ONLY. NOT FOR REPRODUCTION

DUCTOR DUBITANTIUM,

OR

The Rule of Conscience

In all her generall measures;

Serving as a great Instrument for the determination of

CASES of CONSCIENCE.

The Second Volume,

By JEREMY TAYLOR, D.D.

Romans 13. 5.

Ἀνάγκη ὑποτάσσεσθαι, οὐ μόνον διὰ τὴν ὀργὴν, ἀλλὰ καὶ διὰ τὴν συνείδησιν.

Ecce agnus Dei qui tollit peccata Mundi

LONDON printed for R. Roiston at ye Angell in Ivy lane. 1660.

OF
HUMANE LAVVS,
THEIR
OBLIGATION,
AND
RELAXATION:

AND OF

The collateral, indirect, and accidental Bands of CONSCIENCE.

The Third BOOK.

LONDON,
Printed by *J. Flesher* for *R. Royston.* 1660.

CHAP. I.

Of Humane Laws in general; and what Obligation they paſs upon the Conſcience.

RULE I.

The Conſcience is properly and directly, actively and paſſively, under pains of ſin and puniſhment, obliged to obey the Laws of men.

1. THAT the Laws of God and Man are the great meaſures of right & wrong, of good and evil, of that which is to be followed and what is to be avoided in manners of men, and the entercourſes of ſocieties, is infinitely certain and univerſally confeſs'd. Since therefore Humane Laws are one moiety of the Rule and meaſure of Conſcience, and that we are bound to obey our lawful Superiours in what they command, it is naturally conſequent to this, that we acknowledge the conſcience bound, and that in Humane Laws as well as in Divine, though according to their ſeveral proportions, the conſcience ought to be inſtructed. And indeed there is more need of *Preachers* in the matter of Divine Laws, and more need of *wiſe and prudent Guides* in the matter of Humane Laws. For the Laws of God are wiſer and plainer, few and laſting, general and natural, perceiv'd by neceſſity, and underſtood by the eaſieſt notices of things; and therefore men have more need to be call'd upon to obey, then taught how; and therefore here the *Preachers* office is moſt neceſſary and moſt requir'd. But Humane Laws are ſometime intricate by weakneſs, ſometimes by deſign, ſometimes by an unavoidable neceſſity; they are contingent, and remov'd farre from the experiences of moſt men; they are many and particular, difficult and tranſient, various in their proviſions, and alterable by many parts and many ways: and yet becauſe the conſcience is all the way oblig'd, ſhe hath greater need of being conducted then in the other, where every wiſe man can better be a guide in the little intrigues, and every child can walk in the plain way.

2. But our firſt inquiry is, Whether the conſcience be oblig'd or no. For if *Conſcience* be not, then nothing is concerned but *Prudence*, and care that a man be ſafe from the rods and axes: but then the world would quickly find that fear would be but a weak defence to her Laws; which force, or wit, or cuſtome, or riches would ſo much enervate, or ſo often evacuate. And therefore the greateſt Caſe of Conſcience in this whole matter is, Whether it be a matter of *Conſcience* as well as of *Prudence* and ſecurity to obey the Laws of Man. And this queſtion is ſo dubious and unreſolv'd, that *Cajetan* and *Henricus de Gandavo* did ſuppoſe it fit to be determin'd

by the Pope in *Cathedra*, as thinking it otherwiſe to be indeterminable. The reaſons of doubting are theſe;

3. 1. Becauſe God onely is Lord of Conſciences, he onely can diſcern the ſecret that is there, and he onely can puniſh there; and therefore to ſuppoſe any band upon conſcience from Humane Laws, would be to deveſt God of his royalty: none but he who is Καρδιογνώστης the ſearcher of the heart and mind of man can give laws to it; for none elſe can take cogniſance, or give a compulſory.

4. 2. The Conſcience is ſeated in the underſtanding (as I have already
Lib. 1. Rule 1. prov'd,) but that is an imperious faculty that acknowledges no ſuperiour but God; becauſe he onely being infallible, he onely can inſtruct and inform it rightly, none elſe can have power over it. For the underſtanding hath a proper way of being rul'd. The will is rul'd by Empire, but the underſtanding by doctrine; that is govern'd by command, this by argument; the will by power, the underſtanding by truth: now becauſe God onely is truth, and every man a liar, God onely can rule the underſtanding, which is the Court of Conſcience.

5. 3. To ſubmit the conſcience to any law or power of man, is to betray our Chriſtian liberty: For Chriſt having ſet us free from all the bondage even of that Law which God himſelf made and gave to *Moſes*, he having alleviated the burden of rites and ceremonies, and left the Jews at liberty to be governed as they pleas'd themſelves, would not take off the laws of God to impoſe upon us the laws of Men; and there is no ſuch thing as Chriſtian liberty but a freedome from the law of *Moſes*, and the law of carnal ordinances, and the laws of men; for that which the Preachers ſpeak of, a liberty from ſin, and from hell, and the grave, 1. This is rather a deliverance then a liberty, a reſcue from an evil of another nature, not a ſtate of freedome and eaſe. 2. As many men have order'd their Theology, we are ſo farre from having a liberty from ſin, that they have left us nothing elſe but a liberty to ſin: and indeed we have no liberty or freedome from ſin as long as we are alive, but we are always in warre and contention, which is worſe then death; and ſo many men are always captive under ſin, and all men doe ſo often obey it, (and *his ſervants we are to whom we doe obey*) that we have little reaſon to boaſt of Chriſtian liberty in that ſenſe. 3. S. *Paul* uſing the word *liberty*, and ſpeaking of the advantages of Chriſtians in this, inſtances it onely in being freed from thoſe ordinances of *Moſes*, and the impoſitions which ſome Philoſophers or ſome ſects of men would bring upon the conſcience. 4. Liberty from ſin, or Chriſtian liberty in this ſenſe is nothing but a tropical expreſſion, a metaphor and ſimilitude, and therefore is not that real priviledge by which we were materially advantag'd upon the publication of the Goſpel of Chriſt. The reſult of which conſiderations is, That all Chriſtians are free men, ſervants of Chriſt, and of none elſe, it being an expreſs Commandement, and that ſtrengthned with a reaſon, *Ye are bought with a price, be ye not the ſervants of men*; which at leaſt muſt be underſtood of Conſcience, and the mind of men.
1 Cor. 7. 23.

6. 4. For granting it to be lawful for men to make Laws, yet that theſe Laws cannot bind the conſcience it appears plainly in this; that whatever Law

Laws of the Church are made concerning any rite or ceremony, let it be never ſo neceſſary or fitting that they be obeyed, yet the things doe not become intrinſecally neceſſary, and therefore are not to be thought ſo, leſt, expreſly againſt the Commandement of our Bleſſed Saviour, we *teach for doctrines the commandements of men.* To keep Holidays may be very good, ſo that we obſerve them to the Lord; but he that thinks it neceſſary and a direct duty, wrongs his own conſcience: which demonſtrates that Conſcience is free when every thing elſe is bound. You may faſt when you are commanded by your Superiour, but you muſt not think that faſting is a part of the Divine Service; that is, though man commands faſting, yet God does not: and then if man of himſelf does binde the conſcience, he hath a power equal to God, and can make Divine Commandements: but if man cannot doe ſo, then the conſcience is free, and not tied by humane Laws.

7. 5. If humane Laws doe binde the conſcience, then it is put into the power of man to ſave or damne his brother; not directly, but upon the conſequence of his obedience or diſobedience, which is all that is done by the Laws of God; and men ſhall have power to make more ways to the Devil, to make the ſtrait way to heaven yet ſtraiter, and the way to hell, which is already broad enough, yet wider and more receptive of miſerable and periſhing ſouls.

8. 6. Chriſt is the Author and finiſher of our faith, and ſo of every grace: that is, he onely can give it, and he onely can take it away. Since therefore that which makes a ſin, deſtroys the grace, no humane authority can make an action to be a ſin; becauſe no humane power can diſpoſe of grace or take it away.

9. 7. In the inſtance of civil power and civil Laws the caſe is more certain, for this reaſon; becauſe the civil power cannot remit ſins, therefore neither can they bind to ſin: and from hence it will follow, that ſuppoſing Eccleſiaſtical Laws doe bind the conſcience, yet the civil cannot. But then as for the Eccleſiaſtical power and Laws, they alſo are as invalid upon another account, becauſe the Church having no external compulſory, can onely bind in thoſe things where God hath already bound; and therefore can make no Laws of her own, but what are already made by a higher power, and conſequently cannot bind to ſin, but there where the conſcience is already bound by God. And if the Church ſhould inflict her cenſures for any thing that were not of it ſelf a ſin againſt God, as for not paying the fees of the Spiritual Court, for a poor mans working for his living upon a Holiday, the world would cry out of her; which ſhews, that where God hath not bound the conſcience, neither the Eccleſiaſtical nor the civil power can.

8. If humane Laws doe directly bind the conſcience, then it is as great a ſin to tranſgreſs a law of man, as to break a law of God; with our bare foot to touch the ground within the Octaves of *Eaſter*, as to call our brother fool; to eat fleſh on *Friday* as great as to commit fornication: which conſequent becauſe it is intolerable, ſo alſo is the opinion that inferres it. The concluſion is, In Chriſt Jeſus there is neither high nor low; that is, Chriſtian Religion hath no hand in this Heraldry of *Secundum, ſub, & ſupra*; but whatſoever difference of perſon, of order, and of Government is

amongſt us, is by agreement: it is, as S. *Peter* calls it, ἀνθρωπίνη κτίσις, *the ordinance of man*; and for mans ſake it is to be obeyed: but the conſcience is ſtill at liberty where onely the commandement of man does intervene.

10. This opinion is taught by *Fernandus Vaſquius* a Spaniard, and he affirms that all the Gentlemen and common people of *Spain* (the Scholars onely excepted) are of this opinion: it was alſo taught by ſome of the Scholars of *Calvin*, and ſome *Lutherans*, by all the Anabaptiſts of *Germany* of late; and that upon the ſtrength of the firſt, the third and fourth argument; and formerly by *Jacobus Almain*, and *John Gerſon*, by *Felinus*, *Cajetan*, and *Navarre*, but they mean onely the civil Laws of Princes, upon the confidence of the ſixth and ſomething of the ſeventh argument; all which I have thruſt forward as farre as the nature of the queſtion would bear, and added ſome more: which I have done, not that theſe arguments ought to prevail, but that by the examination of them this great queſtion may have right done it, by being rightly ſtated, and fully cleared.

11. Firſt therefore to the main inquiry; it is certain as an article of faith, as neceſſary as any other rule of manners, that every Subject is bound to obey the juſt Laws of his lawful Superiour, not onely under fear of puniſhment from man, but under pain of the Divine diſpleaſure. 1. Becauſe the power by which men make Laws is the power of God: *By me Kings reign, and the Law-givers decree juſtice*, ſays the Wiſdome of God; that is, the Son of God, the Wiſdome of the Father, to whom he hath given all power in heaven and earth, he it is by whom, that is, by whoſe power and wiſdome, Kings reign. For this is the wiſdome, Ἦν Θεὸς ἔκτισε ἀπ' ἀρχῆς, *which God poſſeſſed from the beginning*. The Lxx reads it ἔκτισε, *creavit*, *which God created from the beginning*; and this word the Arrians make uſe of to their evil purpoſes, but very weakly and againſt the faith of the original, where it is קנן *Kanan poſſedit*. This eternal Son of God, and the Wiſdome of the Father, the King of Kings and the Lord of lords, is the original of all humane power, and this is nothing but a derivative from him. *For power is given you of the Lord, and Soveraignty from the Higheſt*; and *ye are miniſters of his Kingdome*. And S. *Paul* expreſly and dogmatically affirms, *There is no power but from God: the powers that be, are ordained of God. Whoſoever therefore reſiſteth the power, reſiſteth the ordinance of God.* So that the Legiſlative or ſupreme power is not the ſervant of the people, but the Miniſter, the Truſtee and Repreſentative of God. 2. The power of the Sword is onely from God; for ſince no man is Lord of his own life, no man hath power to kill himſelf, neither hath he power to warrant any man elſe to doe it; for what he may not doe himſelf, he cannot commiſſion and impower any one elſe to doe. *Vindicta mea*, ſaith God, *Vengeance is mine, I will repay:* and it is Gods ſword with which the Magiſtrate ſtrikes; and therefore Kings and Potentates are Θεοῦ λῃτουργοὶ, and Θεοῦ διάκονοι, ἔκδικοι εἰς ὀργὴν, *Gods deputies and miniſtring officials, in his name to be the avengers of his wrath:* and as Chriſt ſaid to *Pilate*, *Thou couldeſt have no power unleſs it were given thee from above*, may be ſaid to all juſt humanes Powers, It is given them from above, not from beneath, from God, not from the people. The conſequent of which is this, If it be God that ſtrikes and pays vengeance by the hand of the Magiſtrate, then it is God who is offended when the law of the Magiſtrate is violated; for whoever ſtrikes is the party injured; and the Magiſtrate being Gods Miniſter,

Prov. 8. 15.

Wiſdom 6. 3, 4.

Rom. 13. 1, 2.

John 19. 11.

ſter, as he is the leſs principal in the juſtice done, ſo alſo in the injuſtice ſuffered. *Dixit Deus quia Dii eſtis*, It is *God* who *hath ſaid* to the Magiſtrates that *they are Gods*; that is, in the place of God: by his authority they ſtrike, and he is the injured perſon: and therefore he who is ſo ſmitten by the ſword of God, is a ſinner againſt God, for he puniſhes none elſe. *Patet culpa, ubi non latet pœna.* If God puniſhes, it is certain man hath ſinn'd, ſaid S. [a] *Auſtin*, and S. [b] *Proſper*. The one is the indication of the other.

[a] L. 2. retract. c. 9. & ep. 105. ad Sixtum.
[b] Cap. 20. lib. contr. collatorem.

12. But the thing is expreſly affirmed by the Scripture; for having dogmatically and fully ſignified that all humane juſt power is τῦ Θεῦ δυνάμις, ἀπὸ τῦ Θεῦ, διὰ τῦ Θεῦ, and ὑπὸ τῦ Θεῦ, they being the ſeveral expreſſions of *Solomon* according to the LXX, and of S. *Paul* in his own words, it is not content to leave us to find out the conſequence of theſe, but literally affirms the main articles. So S. *Peter*, *Be ye ſubject to every ordinance of man*, διὰ τὸν Κύριον *for the Lords ſake*; which S. *Paul* ſpeaks yet more explicitely, *Wherefore it is neceſſary that ye be ſubject, not onely for wrath, but alſo for conſcience ſake. Sicut Chriſto, as to Chriſt, ſo be obedient to your Maſters*, or *temporal Lords*; ſo the ſame Apoſtle: that is, by the ſame neceſſity, for the ſame reaſon, to avoid the ſame puniſhment, to have the ſame reward, and by the force of the ſame Religion, and that you may not prevaricate the laws of God, or doe violence to your conſcience. Nothing can adde light to theſe ſo clear words, they are bright as the Sun, certain as an article of faith, clear, eaſy and intelligible, according to the nature of univerſal Divine Commandements. S. [c] *Chryſoſtom* and [c] *Theodoret* urging theſe precepts, ſay, that we are not to obey out of courteſie, but of duty; not out of liberality, but neceſſity; that is, according to S. [c] *Ambroſe* and S. *Auſtin*, the fearful pains of hell and eternal damnation attend them that diſobey.

1 Pet. 2. 13. Rom. 13. 5.
[c] [c] In Rom. 13. [d] Ep. 54. ad Maced. vide etiam S. Hieron. in c. 3. ad Titum.

And this whole matter is infinitely demonſtrated in this one conſideration: The Laws of man doe ſo certainly bind the conſcience, that they have a power of limiting and declaring, and making the particulars to become the Laws of God. For though the Divine Law forbids murder, yet the Law of man declares concerning the particular, that it is, or it is not murder, and by ſuch declaration, by ſuch leave or prohibition reſpectively makes it ſo. In *Spain* if a wronged husband or father kill the deprehended adultereſs, it is no murder; in *England* it is. For in *Spain* the husband or father is permitted to be Executioner, where notoreity is declared to be ſufficient conviction: here they are not truſted with it; and the Judge and the Executioner are perſons vaſtly remov'd. If a Law [e] forbids me to take my own goods from a Thief, it is theft to doe it, but it is no theft if the Law permits [f]. It is inceſt for the Uncle to marry with his Niece: it is ſo where the Laws have made it ſo, but it is not ſo of it ſelf, for it was not ſo always. Since therefore humane Laws can conſtitute an action in the habitude of a Divine Law, it is beyond all queſtion, it does oblige the conſcience.

[e] Cap. placuit 16. q. 6. & in l. extat. ff. quod metus cauſa.
[f] Gl. in cap. Jus gentium diſt. 2. verbo Sedium. Capp. 1, 2, 23. q. 2. l. ait prætor. §. ſi debitorem. ff. de his quæ in fraud. Creditorum.

13. 2. This obligation is paſs'd upon the conſcience, and there is this neceſſity of obeying: not onely in caſe humane Laws be firſt given by God *in theſi*, or *in hypotheſi*, that is, in words or in ſenſe, in direct affirmation or juſt conſequence, in ſubſtance or in analogy; but though the matter of the Law be in its own nature wholly indifferent before the ſanction and conſtitution.

ſtitution. The firſt concluſion I intended againſt the *Anabaptiſt*, and this ſecond againſt *Gerſon*, *Almain*, and the diſſenting Sectaries: and of the truth of it we have an inſtance in the perſon of S. *Paul*, who by his Apoſtolical authority gave an injunction which hath ever ſince been an Eccleſiaſtical Canon; and yet he alone and not the Lord gave the word, *That a* 1 Cor. 7. 12. *believing wife or husband ſhould not depart from their unbelieving* correlative, if he or ſhe reſpectively deſir'd to ſtay. It was a matter in which Chriſt had not at all interpos'd, but S. *Paul* made it a law to the Chriſtian Churches; and whoever ſhall prevaricate it ſhall bear his burden. And indeed it were a vain thing to ſuppoſe that all humane Laws were derived from the law of Nature, or the Divine poſitive; or that thoſe which were not ſo derived could not be good and reaſonable, and that the authority binding them were incompetent. For whatſoever is derived from the law of God cannot by men admit variety, nor ſuffer diminution, or goe into deſuetude, or be extinguiſh'd by abrogation: and then it would follow that no King could command any thing but what was neceſſary before he commanded it; and nothing could be a law to the Perſians, but what alſo did oblige the Greeks; and nothing could bind in the 125 *Olympiad*, but what was decreed before the days of *Semiramis*; and there were no law but thoſe of the Medes and Perſians; and there could be no proviſions made for new neceſſities, and the Government of Commonwealths could never be improved by experience, and all Law-givers were as wiſe at firſt as ever they could be. All which are ſuch fooliſh conſequences, that it muſt be granted, that whatever humane Power can juſtly ordain, or prudently, or neceſſarily, or probably, all that is bound upon the conſcience of the Subject certainly and to all events as the Laws of God himſelf. And therefore *Plato* ſaid well, *That before the Law is made, men may judge of it, but after the ſanction, not at all:* that is, it is ſo indifferent in its nature, that it is fit to be conſidered and diſputed; but when it is made a Law, there remains nothing but a neceſſary obedience. And to the ſame purLib. 5. Ethic. cap. 7. poſe *Ariſtotle* largely diſcourſes; for when he had divided the civil Law, πολιτικὸν δίκαιον, into φυσικὸν & νομικὸν, the *natural* and the *conſtituted*, he ſays, νομικὸν ᾧ, ὃ ἐξ ἀρχῆς μὲ οὐδὲν διαφέρει ὕπως ἢ ἄλλως· ὅταν ᾧ δῶνται, διαφέρει, The Law that is not natural, but decreed by man, *in the beginning it matters not whether it be made or no; but after it is made, it is a great matter whether it be kept or no.* But this whole affair is put beyond all ſcruple by the words of the Apoſtle, *Obey your Maſters, not onely the good and gentle, but the* moroſe and *harſh*; that is, not onely if what he commands be in it ſelf good and fitting, but if it be troubleſome, and uneaſy, and unneceſſary; any thing, ſo it be not unlawful: for every thing that God hath not forbidden, can be bound upon conſcience by a lawful Superiour. Either therefore all humane Laws are nothing elſe but commentaries on Scripture or the natural Law, or elſe are wholly unneceſſary, as being nothing but repetitions of the Divine laws: and there can be no new law made; or if there can, it muſt bind the conſcience: for all other things bind the conſcience by themſelves, and without humane conſtitution. If therefore any humane conſtitution, as ſuch, can bind the conſcience, it muſt be of ſuch inſtances which either are derivatives from the law of Nature, or of things which before the law did not bind at all, that is, of things which in their own nature are indifferent.

14. 3. That humane Laws bind the conſcience does not depend upon the

the intention of the law-giver; for when the arrow is ſhot out of the bow, it will hit or miſs by its own force and order, not by the intention of the Archer: and no law-giver can make a law with a purpoſe not to oblige the conſcience. In the reign of Queen *Elizabeth* this queſtion was much talk'd of, and little underſtood; and ſome diſcontented Recuſants under the Government of the Church of *England* had ſo talk'd the lawes themſelves out of countenance, that the legiſlative power durſt ſcarce own the proper obligation of an Eccleſiaſtical, or of a law relating to any thing of religion; inſomuch that when the wiſdome of the ſtate thought fit to confirm the ancient lawes of Eccleſiaſtical faſts, they ſuperadded this proviſo, That if any one ſhould affirm that theſe lawes were intended to bind the Conſcience, he ſhould be puniſh'd like the ſpreaders of falſe newes: and the *jejunium Cecilianum*, the *Wedneſday faſt*, was made without ſuch obligation. Now this is plainly to them that underſtand it, a direct artifice to evacuate the whole law: for a law that is made without intention to bind the conſcience is no law at all; for beſides that it is a plain giving leave to any man to break it that can doe it without obſervation, or can bribe the officers, or is bigger then the informers, or not eaſy to be puniſh'd, or that dwels alone, or that is himſelf a Miniſter of the law, beſides this, I ſay, it is directly no law at all. For all humane power being deriv'd from God, and bound upon our conſciences by his power, not by man, he that ſaies it ſhall not bind the Conſcience, ſaies it ſhall be no law, it ſhall have no authority from God; and then it hath none at all: and if it be not tied upon the Conſcience, then to break it is no ſin, and then to keep it is no duty: ſo that a law without ſuch an intention is a contradiction; it is a law which binds onely if we pleaſe, and we may obey when we have a mind to it; and to ſo much we were tied before the conſtitution. * * But then if by ſuch a declaration it was meant that to keep ſuch faſting-daies was no part of a direct Commandement of God, that is, God had not requir'd them by himſelf immediately, and ſo it was (abſtracting from that law) no duty Evangelical, it had been below the wiſdome of the contrivers of it; for no man pretends it, no man ſaies it, no man thinks it: and they might as well have declar'd that that law was none of the ten Commandements.

15. 4. Though Humane lawes doe not bind the Conſcience by the intention of the law-giver, but by the command of God, yet God does bind the law upon the Conſcience according to the intention of the power that decrees it. For though a Father cannot command his Son to doe a lawful and fitting ſervice, and by his intention make that the diſobedient Son ſhall not ſin againſt God, becauſe he cannot make diſobedience to be no ſin; yet by intending leſs obligation in the law, he makes the crime imputable in a leſs degree; that is, the authority is the leſs deſpis'd, there is leſs evil conſequent, the miſchief is ſmall, the inconvenience little. * And therefore the Doctors of the Canon law doe to very little purpoſe trouble this queſtion with inquiries after ſigns, when the intention of the Law-giver is to bind to Mortal, when to Venial ſins. For beſides that the diſtinction it ſelf is trifling according to their underſtanding of it (of which I have given a large account in a Diſcourſe on purpoſe) and beſides that the commands of Heathen Parents, and Maſters, and Princes who knew nothing of that diſtinction (if it had been right) did nevertheleſs bind their Subjects to obedience under pain of ſin; beſides theſe, I ſay, the law-giver does not at all make it a ſin, or no ſin: he onely intends it ſhould be kept, and to that purpoſe

Unum neceſſarium Chap. 3. p. 101.

poſe binds it with penalties, and conſequently and indirectly binds the Conſcience: but God binds the Conſcience *properly* and *directly*; for the law is Divine in reſpect of the power and authority, but Humane in reſpect of the matter and the inſtance: and that is the meaning of theſe words put into the Rule. The conſcience of man is by Gods law *properly and directly* bound to obey the lawes of Men; not indirectly and by the conſequence of ſome other duty, but by a Commandement and the purpoſed ſolemn declaration of his will in this affair. But this I ſhall more fully explicate in my anſwer to the oppoſite arguments. Now becauſe although the law-givers intention does not directly make the diſobedience to be ſin or no ſin, yet becauſe indirectly it hath influence upon the action and the conſcience of the ſubject, it is uſeful that I ſet down the Rules and Meaſures of the difference; and how we may gueſs (for it can be no more) at the diſtinct obligations which from the diverſities of humane lawes are paſſed upon the Conſcience.

Rules of diſtinction, or the meaſures by which we ſhall prudently conjecture at the gravity or leſſening of the ſin of diſobedience to Humane Lawes.

16. 1. He that breaks a law which is eſtabliſhed upon great penalties, commits a great ſin. Becauſe it is regularly to be preſumed that the ſupreme power puts much upon it, when he is ſo earneſt for its obſervation. *Rem quæ culpâ caret, in damnum vocari non convenit*, ſaith the Law, *Cap.* 2. *de conſtit. If there be no fault there ought to be no puniſhment*; they are relatives, and correſpond alſo in their very degree. *Quis dubitaverit hoc eſſe ſceleratius commiſſum quod eſt gravius vindicatum?* ſaith S. *Auſtin*, If the puniſhment was more grievous, the wickedneſs alſo was the more intolerable: *ut juxta menſuram delicti ſit & plagarum modus*: that's the meaſure of punitive juſtice, *that the number of the ſtripes be according to the meaſure of the iniquity*. And concerning thoſe things where there is any doubt, the Subject is not to judge whether the law be very neceſſary or no; but to judge concerning the intention and mind of the Superior, and whether he thinks it very neceſſary: For he knowes beſt, and by his knowledg and his authority is the moſt competent Judge. This Rule hath no exception, unleſs it be evident that the puniſhment is impos'd for terror, and to affright men from doing that for which it is not very fit they ſhould be ſeverely puniſh'd: as if a Prince ſhould under pain of death forbid the hunting of a hare; the greatneſs of the puniſhment neither makes nor declares the fact more criminal then it is in its own nature under a law that forbids it under a ſmaller puniſhment. But if the caſe be doubtful, whether the law be of great purpoſes and deſign, the greatneſs of the puniſhment in a prudent and temperate government is the beſt exterior indication. But if the puniſhment be light & trifling, the offence is ſo too; for the legiſlative power can put no more weight upon it then it declares by puniſhment, but ſo much it does: and the Rule of *Alfonſus à Caſtro* is very uſeful here and in ſome other articles, *Humana lex non magis gravat conſcientias quam corpora*. For Gods Law adding energy and Sanction to the conſtitutions of man, binds ſo far as the Prince or as the Prelate binds: and this is fully ſignified in the words and commiſſion of Chriſt to his Church, *Whatſoever ye ſhall bind on Earth, ſhall be bound in Heaven*; for there our Bleſſed Lord conſtituting a Government in his Church, as already there was in the world, though

Lib. 2. de Baptiſ. c. 6.

John 20.

though of another nature, and by compulſories external, and a proper juriſdiction (from which the Spiritual differs, as I ſhall explicate in the fourth chapter of this book) did promiſe to doe to them as to the Princes of the World; that is, verify their miniſtery of Lawes and Judgments. He indeed appointed other manners of coercion, and a diſtinct adminiſtration; but the power of giving lawes and judgments he gave then; and he gave it as firmly as to the greateſt Kings: that is, as he commands Subjects to obey their Princes, ſo alſo to obey their Spiritual Superiors; as he will puniſh the rebellious and diſobedient to Kings, ſo the diſobedient to Biſhops, and to Apoſtolical Prelates; that is, according as every Superior can and intends to bind by his temporal or ſpiritual penalty, God will verify it and condemn the ſame perſon with an eternal. Since therefore Gods verification of humane lawes and judgments is *after* the Sanction and *for it* wholly, it muſt alſo be *according* to it. He that binds what man binds, binds ſo much and no more; as therefore man intends the obligation, ſo God obliges the Conſcience.

17. 2. If the matter of humane lawes be great in it ſelf, to prevaricate thoſe lawes gives a proportion of greatneſs to the crime. 1. But this ſeldome happens but when a Divine law is complicated with the Civil; ſuch as the prohibition of publick ſtewes, the lawes for keeping daies of religion, the Lords day, Chriſtmas, Aſcenſion, and the Incarnation, the preſerving the perſons of them who miniſter to Religion ſacred, the immunity and intemeration of Holy things as well as holy perſons, the matters of Sacrilege, Simony, keeping of vowes, together with all ſpecifications and humane inſtances of Divine Commandements, as that Children ſhould not marry without their Parents conſent, that marriages ſhould not be conſummate before they be publiſhed. 2. To theſe alſo are to be added ſuch lawes which in their own nature contribute much to the publick ſecurity or advantage: as that men ſhould not in a City fire their own houſes, nor cut the damme of the Sea upon their own ground, that they ſhould not in times of peace fire a Beacon, nor tell falſe and diſheartning news to an army ready to joyn battel, nor make falſe Muſters when the Enemy is near.

18. 3. Though the matter of the lawes be in it ſelf light and trifling, yet if by reaſon of ſome preſent appendages, and viſible or probable conſequences it be great, the conſcience is tied to obedience under a great crime. For a ſingle ſouldier to fly from a battel is of it ſelf no great matter, were it not for the evil example; but becauſe it may affright the next man, and that may ſcare the rank, and the rank may diſorder the company, and ſo proceed to an intolerable miſchief, therefore the ſin is great by the proportion to the evil it is likely and apt to produce. To carry corn abroad is no great matter of it ſelf; but when the price is great and the plenty is little, the miſchief it does by accident is the meaſure of the ſin.

2. * Of the ſame conſideration it is, when an action of it ſelf light and impertinent is made the matter of a great ſcandal. To kneel or to ſtand at the Holy Communion hath been ſeverally uſed in divers Churches Ancient and Modern; but when a law is made that we ſhall kneel, and if I doe not kneel he that obſerves will think I doe no reverence to Chriſts body and blood, and by my example will learn to deſpiſe it, the Conſcience is burden'd with the ſin of irreverence ſomething, but very greatly with the ſin of ſcandal.

3. When

3. When the thing of it ſelf is indifferent, and yet the Cuſtome of it is paſs'd into ſuperſtition, or cauſes horror, or ſome notorious evil effect, the lawes that prohibit any ſuch thing doe bind the conſcience to obey under the pain of being guilty of the great evil that is introduc'd by it. To light up candles by dead bodies is as harmleſs as any thing; but if it be prohibited for the avoiding of ſuperſtition to which it miniſters in ſome weak perſons, the diſobedience hath its value not according to the action, but the evil intention to which it is ſuppos'd to contribute. Thus we find a title in the Canon law, *de cadaveribus non exenterandis & in fruſta concidendis ut ad alia loca transferantur:* and it is forbidden under the pain of the greater excommunication, *that bodies ſhould be imbalmed*, that is, *unbowell'd and cut in pieces to be carried to other places of Sepulture remote from where they died.* The thing in it ſelf was innocent and warranted by the practice of whole nations, and had countenance from the examples of *Jacob* and *Joſeph*; but it did light into the obſervation of people that thought it cruel, unnatural and inhumane, and there that opinion, not the nature of the action, gave the weight and value to the diſobedience.

De Sepultur. cap. corripiantur. c. 25. q. 3. gl. ad verbum [Major.]

4. When an action in it ſelf indifferent is by the law expounded to ſignify a ſin, though in it ſelf it doe not, nor in the heart of him that does it, the diſobedience to that law is an act of that ſin, or at leaſt of a ſcandal relative to it. Thus if a civil law were made to forbid women to goe in mens cloths, as preſuming them that did ſo were incontinent and wanton, ſhe that diſobeyed that law was really to be judged wanton, becauſe ſhe would doe that which the law ſo expounded; and her crime was great, not according to the thing it ſelf, but to the ſenſe of the law; ſhe deſpiſes her own reputation, does that thing which the law, by which the beſt judgments are made, judges to be incontinence, and therefore ſhe is juſtly to be condemned as an incontinent: and upon this account there was a law made; and it is recited *cap. ſi qua mulier, diſt.* 30. where women under pain of anathema are forbidden to appear in a mans habit; where the gloſs addes, *ſcil. ob malum finem*, if it be for an evil end, it is a ſin proportionate to that evil end: and therefore when the law declares beforehand, that it ſhall be judged to be a Miniſtery to that evil end, the action is that ſin which is ſo adjudged, & the conſcience bound accordingly. But this caution hath one limitation, *viz.* though the law expounds ſuch an action to be incontinence, and therefore ordinarily it is ſo to be judged; yet if it really be not ſo, but be done upon ſome great neceſſity or for ſome very good end, though till the publication & approbation of the cauſe, it be externally and legally diſhoneſt, yet the conſcience is clear: becauſe in an action that is indifferent, and condemn'd onely for a preſumptive end, when that preſumption fails in the particular, and the indifferent action ſerves really to a pious, a charitable, or a neceſſary end, the action is made good, and therefore the Conſcience is diſoblig'd. For *that which is really ſo, prevails over that which is but preſumed ſo.* Thus we find that S. *Euphroſyna* liv'd long in a Monaſtery of men; and the Church which took cogniſance of it, did, upon evidence of her piety and purity, after death declare her a Saint: and that S. *Eugenia* went in a mans habit [to avoid the perſecutors of Chriſtianity for a while] is told in the *Menologion* of the Greeks; and her memory as of a Virgin and Martyr is celebrated in the Greek Church upon Chriſtmas eve. And when *Nonnus* the Biſhop of *Edeſſa* had converted S. *Pelagia*, who from a common curtezan became a glorious Saint, after the ſuffering of moſt ſevere penances in the mount *Olivet*, ſhe eſtrang'd her ſelf from all probabilities of temptation from vain men

men by living in a mans habit conceal'd all her life-time; and the Church keeps her memorial in honour upon the 8th of *October*.

5. If the matter of humane Laws be in it ſelf trifling and inconſiderable, yet if it meets with a people where it is eſteem'd a crime, and the laws forbid it upon that account of a publick diſ-eſtimation, it is to be preſumed that the laws doe condemn it equally to the publick fame; and therefore that the conſcience is bound accordingly. Thus in the days of *Clemens Alexandrinus* the Chriſtians thought it a very horrid thing to wear falſe hair; and

Calvo turpius eſt nihil comato, Lib. 10. ep. 83.

ſaid *Martial* to *Marinus*, nothing is more deformed, nothing more unhandſome. Now though it be not ſo in it ſelf, yet when the hearts of men are generally againſt it, as it was then (though it be not ſo now) if any law had prohibited the wearing of Perrukes, the conſcience had been greatly obliged, for the law did lay much upon it, even as much as all the evil of the publick infamy did amount to. Thus to break a faſting-day which by cuſtome hath been obſerved in a Church, is a matter of ſmall account; but if a law have forbidden it, and forbids it there where it is commonly accounted a very high impiety, though of it ſelf it be not ſo, yet under ſuch a law in ſuch circumſtances it becomes ſo, and is to be valued accordingly. And upon this account are thoſe words of S. *Chryſoſtome* to be underſtood, *Adveniente tempore jejunii, etiamſi quis millies urgeat, & infinita cruciet; & cogat vinum delibare, aut aliquid aliud quod jejunii lege non eſt licitum guſtare, patiendum potius eſſe, quam prohibitum tangere nutrimentum.* It was accounted a great matter then to break an Eccleſiaſtical faſt: and therefore when a law is ſupported by ſuch an eſtimate, that law binds heavily; and it will be a great ſin to break it, unleſs there be a great cauſe to legitimate or excuſe it. In ſuch caſes we muſt endure a great inconvenience rather then diſobey.

6. Though the matter be little, yet if the Legiſlative power hath a particular eye and value upon it, however it be expreſſed, if ſuch a value be known or obſerved, the ſmalneſs of the matter is no argument of the ſmalneſs of the ſin. Thus alſo in the foregoing inſtance of Eccleſiaſtical Faſts are thoſe words of S. *Baſil* to be underſtood, ſaying, *Non minus crimen eſſe violare jejunium Eccleſiaſticum, quam militi abjicere ſcutum in bello, aut ſtationem deſerere.* Eccleſiaſticall Faſts in his time were the cogniſance of a Chriſtian, his defence and guard; and therefore not to keep them was as if a Souldier did throw away his ſhield in a day of battel, or deſert his ſtation. So the Prelates of the Church did then underſtand it, ſo they intended it. When a trifle is made a mark of union, as to wear a branch in warre, when the Superiour ſets his heart upon it; in this caſe the mind of the ſupreme becomes a law to his Subjects, in the former they become a law unto themſelves. Sometimes a ſmal inſtance is made the trial of obedience; and the Superiour hath a great authority, but a little dioceſe, or a few Subjects, or ſmall occaſions to rule in; in theſe and the like caſes, the ſmalneſs of the matter is not onely to be conſidered, but the interpretation and effort which the Superiour puts upon it. If he calls every ſuch diſobedience a contempt of his authority, and accounts it a diſſolution of that community where he governs, or a great violence of order; it is ſo in conſcience, that is, to be valued beyond the matter. For *he that takes a little piece of iron from an iron forge does no great harm; but if he takes it from a lock or a chain, he diſorders the whole contexture.*

19. 4. When an Eccleſiaſtical puniſhment is ſuperadded to a civil law, or a civil puniſhment to an Eccleſiaſtical law, it is to be preſumed that the law-giver puts much upon it, and therefore the conſcience is obliged to obedience under a great ſin. The reaſon is plain, becauſe he can by no means better and more earneſtly ſignify his purpoſe of obliging ſtrongly then by uſing both the ſwords: he binds more ſtrongly then all the terror of the civil puniſhment, who beſides that, calls in the aids of Religion; and that Prelate is paſſionately deſirous to ſecure obedience to his laws, when beſides the bands of God, he cals in to his help the cords of a man, and ſo ſecures it by all means. And therefore whatſoever is decreed under pain of ſolemn excommunication is therefore ordinarily preſumed to be of great band unto the conſcience, not onely by force of the firſt Rule *, becauſe it is a great puniſhment; but alſo becauſe the civil power does verify that ſentence, and inflicts ſome great temporal evil upon them that abide in contempt or diſobedience to the orders and cenſures of the Church.

* Numb. 16.

20. 5. The preceptive or prohibitive words in humane Laws ordinarily are no ſign of a greater obligation of the conſcience; that is, when the words of ſtrict command are the uſual ſtyle of the Court, as it is both in Civil and Eccleſiaſtick Courts. * 1. But if ſome laws are publiſhed with ſevere clauſes of command, and others on purpoſe and by deſign with leſſer and the more gentle, then the caſe is evident that there is a difference to be made alſo by the conſcience. And this is in particular made uſe of by the Franciſcans in the obſervation of the Rule of their Order. For, *in Clementina, Exivi de paradiſo, § Cum autem, De verborum ſignificatione*, it is determin'd that that part of the Rule of S. *Francis* which is eſtabliſhed by preceptive or prohibitive words ſhall oblige the *Friers Minors* under a great ſin, the reſt not; and this wholly upon the account of the different clauſes of ſanction and eſtabliſhment. * 2. Another exception there is to this Rule, for when the preceptive or prohibitive clauſes are reduplicated directly or by ſome ſolemn appendage, it is preſumed that the conſcience is highly bound. Such as are [*We ſtrictly charge and command, we command in the vertue of obedience, upon your duty and allegeance, upon my bleſſing, as you will anſwer it at the dreadful day of Judgement, upon your oath, and ſuch like*] And here the reaſon is plain, becauſe the Superiour calls in to his aid the intereſt of ſome other vertue beſides the obedience; as juſtice or veracity, hope or fear, the helps of God immediately, or a proper appeal to ſome other great tie of conſcience.

21. 6. However the laws were eſtabliſhed, yet according as they goe off, or goe leſs, or fall into deſuetude or diſobligation, ſo the band of conſcience grows leſs, till it be quite eas'd by abrogation; for the law binding by its eſtabliſhment, and the conſcience being bound by the life of the law, as the law dies the conſcience is at eaſe: and by this Rule S. *Paul* largely proves the Chriſtian Churches not to be obliged in conſcience to obſerve the law of *Moſes*, in the ſeventh Chapter to the *Romanes*.

22. 7. The *contempt* of any law, be the matter never ſo trifling, be the Law-giver never ſo unconcerned, be the publick intereſt never ſo little, yet if it be law, and ſtill in force, is a great ſin, and lays a great load upon the conſcience. *Contemptus in omni ſpecie mandatorum pari pondere gravis, & communiter damnabilis*, ſaith S. *Bernard*, *All contempt of laws, be the matter*

Lib. 1. de præcept. & diſpenſ. c. 11.

little

little or great, is highly damnable; and the reaſon he ſubjoyns a while after, *Convertit in crimen gravis rebellionis culpam levis tranſgreſſionis, Contempt makes the ſmalleſt tranſgreſſion become a great rebellion.* Becauſe here it is not the violation of the law, but of the authority; not the *decree*, but the *power* is undervalued, and ever accuſes the Law-giver of want of wiſdome, or ſuppoſes him to have no power. This is that which in *Leviticus* is expreſs'd by [*Si ſpreveritis mandata mea, & anima veſtra faſtidierit judicia mea*] *a contemning the commandement, and that your ſoul hate and loath the judgements.* Such a thing as this, is a deletery to the whole Law, and tears the knot that ties the mantle upon the Princes ſhoulders: and this is acknowledged even by them who believe that humane Laws doe not oblige the conſcience; for they confeſs that the conſcience is at leaſt bound ſo farre that the law be not deſpis'd. Now then beſides that this Rule is eſtabliſhed not onely by its own reaſon but by conceſſion, there is this advantage to be made of it; That if the conſcience be bound ſo farre that the law be not deſpis'd, then the conſcience is bound ſo farre that the law be obeyed if it can; that is, that it be always obeyed, unleſs there be a competent and ſufficient or probable reaſon to the contrary. And therefore it is remarkable that God calls the not obeying of his laws, a deſpiſing and loathing them in their hearts: *Si judicia mea exhorruerit anima veſtra, ita ut non faciatis, If your ſoul ſo hate my judgements that ye doe them not*; that is properly to deſpiſe them: and ſo it is in humane Laws; he that breaks them without cauſe deſpiſes them, for nothing elſe does make him not to obey. For this is a certain rule, *Cauſleſly and contemptuouſly are all one.* If therefore the adverſaries in this Rule doe affirm that the conſcience is bound to obey, unleſs there be reaſon to the contrary, then we agree together, and both with truth; and if there be any difference afterwards, it is onely in aſſigning what reaſons and what cauſes are ſufficient. But if they mean that the conſcience is onely bound not to deſpiſe the law, but may break the law when there is no reaſon for it, and if ſhe does, commits no ſin againſt God; then by deſpiſing the law they muſt mean ſomething that no Grammar and no Lexicon ever underſtood, and that none deſpiſes the law but he that rails upon it, and reviles it, or reproaches the authority directly; for indirectly he reproaches the authority that deſpiſes the law, and he directly deſpiſes, that for no reaſon diſobeys it: for if for no reaſon, then it is contempt, for elſe there can be no account given of the omiſſion; and nothing is a greater contempt then to eſteem the law ſo inconſiderable as to be leſs then nothing. He that thinks it unlawful hath a reaſon, real or imaginary: but he that thinks it lawful, and yet will not obey, and hath no reaſon why he will not, does deſpiſe it infinitely. Some ſuppoſe that to break a law frequently or cuſtomarily is contempt: But to this I aſſent not, becauſe there may be a laſting reaſon why the law is by cuſtome broken: indeed, if there be no reaſon, then the greater the cuſtome is, the greater is the contempt; but if there be a reaſon, neither one omiſſion nor twenty can be criminal. But in this particular I like well what is ſaid by the Lawyers, *Ex conſuetudine indici præſumptionem contemptus, licet ipſa contemptus non ſit.* It is a very great preſumption that whoever frequently breaks the law does deſpiſe it: and upon him that does ſo, the burden of proving that he does not, by proving his reaſon, is incumbent.

Cap. 12.

Lev. 26. 15.

Lev. 26. 15.

Gloſſ. in cap. Metropolitanum 2. quæſt. 7.

23. Theſe are the meaſures by which we ſhall account concerning the degrees of obligation of conſcience to obey humane Laws. The uſe of them

is this, That beſides they are helps to alleviate the ſcruples or the doubts of conſcience concerning the greatneſs of a ſin in this inſtance, and in proportioning our repentance and amends; they are alſo of great uſe both in the judging concerning the reaſons of diſobeying, that is, whether the reaſon be weighty enough to outweigh the impreſs and intention of the law, and alſo of judging what inconvenience is to be ſuffer'd to preſerve our obedience reſpectively to any law.

24. It now remains that for the confirmation of the truth and explication of the ſenſe of this rule, the objections made be conſidered.

25. To the firſt I anſwer, That to ſuppoſe humane lawes to bind the Conſcience is ſo far from deveſting God of his royalty, that it does very much eſtabliſh it; for it is a part of his Royalty to bind the Conſcience, and therefore he that ſaies, that God does bind the Conſcience to obey humane laws, makes no intrenchment upon that. For although humane laws doe bind the Conſcience, yet it is not by vertue or formal energy of the civil power, but by the authority and power of God; the King and the Biſhop are but Chriſts deputies, and his power they exerciſe, by his power they rule, and to his Kingdome they miniſter. And therefore the civil power does not take cognizance of the Conſcience, nor pretend a compulſory over it; but God does, and does exerciſe it when he puniſhes the Soul eternally for contempt and rebellion againſt the Princes of the people.

26. To the ſecond, We are to conſider, that when it is ſaid that Humane lawes bind the Conſcience, the meaning is, it ties us to duty, and we are guilty before God if we doe not obey man: and Conſcience is not here taken in the phyſical or natural ſenſe, for a practical underſtanding alone, but for the whole mind of man informed and commanded by God; in which mind one of the Principles or laws of God written there is, that we ſhould *obey them that have the Rule over us:* but beſides this, this whole argument is a plain paralogiſme; for it ſuppoſes that becauſe Humane laws are tied upon the Conſcience, that they are tied by man, not by God; which is againſt the true ſtate of the Queſtion: therefore if Conſcience were wholly a habit or an act, or the faculty of underſtanding, and conſequently in this laſt caſe ſubject to God alone who is truth, yet the truth remains unharm'd, for it is not man that rules in the Conſcience, but God who commands it to obey man, for fear of Gods diſpleaſure. Humane laws are but the material part in this obligation; the authoritity and command of God give it life & force upon the Conſcience: it is like the body prepar'd by the Father of the Country, into which God inſpires a living and an operative principle.

27. To the third the anſwer is eaſy and ſhort: for granting all that is ſaid, it not being material to the preſent inquiry whether it be true or no; it is a part of Chriſtian liberty that the Conſcience be ſervant to none but Chriſt, and whatever be the matter of humane laws, if it be not alſo the matter of a Divine law, the Conſcience is free from that matter of it ſelf, becauſe God being onely the Lord of Conſcience, and he not having by his law eſtabliſhed that matter, the Conſcience is free as to that matter. But then when a juſt authority ſupervening hath made a law in that matter, though the Conſcience was free from *that matter*, yet it is not free from *that authority*: not that the Conſcience is a ſubject of that authority immediately,

mediately and ultimately, but becauſe God hath ſubjected it, and commanded it to obey.

Of Chriſtian Liberty.

28. But for the fuller ſatisfaction of Conſcience in this great article, it will not be amiſs to give a full, but ſhort account of the nature and pretences of Chriſtian liberty. In order to which S. *Peter* explicates this article moſt excellently, ſaying, *Be ſubject to every ordinance of man* διὰ τὸν Κύριον, *for the Lord*, that is, for his Commandement, and for the intereſt of his Kingdome, * and his power and his glory: for it is a portion of his kingdome, it is the deputation of his power; and he is glorified by our obedience, when the princes of the world by ſeeing our ready ſubjection have no cauſe to ſpeak evil of us; which was the very argument which the * Apoſtle uſes in this queſtion. And therefore S. *Peter*, who in this inquiry takes notice of our liberty, gives expreſs caution, that though we be free from many fetters and hard ſervices, yet we ſhould not pretend Chriſtian liberty as a cover for ſedition and rebellion and diſobedience, which he ſignally calls κακία, we render it *malicioufneſs*: and if it be us'd to expreſs the effects and evil conſequents, it is very well; but it relating here to the principle of the miſchief, it is better rendred, * *Craftineſs*, μὴ ἐπικάλυμμα ἔχοντες τῆς κακίας ἐλευθερίαν, *not making* this Chriſtian *liberty a pretence and cover for your Craftineſs*: for they well knew the artifices of the Devil, and that he would endeavour to aliene the hearts of ſubjects from their Princes upon pretence of Chriſtian liberty, and of heathen Princes from Chriſtianity upon ſuppoſition it was no friend to government; and ſo it fel out in the *Gnoſticks* and *Valentinians*: but againſt theſe evils the Apoſtles by the Spirit of God and the doctrine of the Goſpel made excellent proviſions. For as S. *Peter* ſo alſo S. *Paul* us'd the ſame caution in this article: for having preſs'd upon the *Galatians* to inſiſt upon their Chriſtian liberty, and not to be brought under the yoak of *Moſes*, leſt they ſhould ſtumble at the name of liberty, he charges them not to abuſe it, not to extend it beyond its proper limit, not to uſe it as an occaſion to the fleſh; and that it may be manifeſt where it was he intended to fix his rule, he inſtances in the matter of government, adding by way of explication, *By love ſerve one another*: that is, though you Chriſtians be all free, yet there is a bond of charity, by which you are tied to the rules of government and ſervice and ſubordination; in theſe things if you pretend your liberty, it will be but an occaſion to the fleſh, and a diſhonour to the Spirit. For our liberty is not a *Carnal liberty*, but it is a *ſpiritual*. If a ſlave be called to Chriſtianity, he is *the Lords freed-man*, but not Mans, he is ſtill a ſervant and commanded to abide in it, if in that ſtate he be called. And it is an excellent Rule which is given by *Calvin* in this particular, *We ought to account that by Chriſtian liberty there is nothing gotten to us before men, but onely before God*. And it is a horrible folly which abuſes ſome men, they think that they looſe their liberty unleſs they get poſſeſſion of it by doing againſt that part which is forbidden: not conſidering that if the matter be indifferent, then they may as well doe that which is by man commanded, as doe the contrary, they are as free to one as to the other; and therefore for civility, and for government, and for order, and for humanity ſake, ſince they muſt uſe their liberty one way, let them doe it that way which

Iſai. 33. Luc. 1. Apoc. 1. & cap. 19.

* 1 Pet. 2. 15.

* See the Doct. and Pract. of Repent. chap. 4 p. 173.

Galat. 5. 13.

1 Cor. 7. 20. 21, 24.

Lib. 3. inſtit. cap. 19. §. 10.

will at leaſt pleaſe God as well, and Man better. And for their Chriſtian liberty, that is in the Spirit, and they need no other teſtimony but the Conſcience it ſelf: for the Conſcience in this alſo is a thouſand witneſſes. And therefore truly and plainly the liberty that the Apoſtles ſpeak of is but a freedome from the *dominion of ſin*, and a freedome from the *terrors* and *obligation* of the Law: the firſt is a freedome of duty, the ſecond a freedome of priviledge; the firſt is a Commandement, the ſecond a ſtate of advantage; that is but a working, this is completed; that is deſign'd by Chriſt, this already wrought, and is the effect of Chriſts death, while the other is the product of his Spirit, and the buſineſs of the Kingdome of Grace. But let us ſee what is the proper and explicite effect of all this.

1. It is true that we are freed from ſin, that is, we are aſſerted into the liberty of grace and pardon; the band of ſin is broken, and we may be reſcued from the power and from the puniſhment of it: and what then? S. *James* anſwers this inquiry, *Whoſo looketh into the perfect law of liberty, muſt be a doer of the work*, that is, of the righteouſneſs evangelical; and *this man ſhall be bleſſed in his deed.* For it is Chriſt who hath ſet us free; but yet be ſervants of Chriſt: his Spirit hath made us free, and aſſerted us *into the glorious liberty of the Sons of God*; *therefore we are debters, not to the fleſh, to live after the fleſh*, but we muſt live a ſpiritual life, for to doe ſo is to perſiſt in our liberty; it is entring upon that poſſeſſion which God hath given us: but this is like the gift given to the ſons of *Iſrael*; all the land of *Canaan* was their portion, but they were to fight for it, and win it by degrees; but it was long before they were in quiet poſſeſſion, and ſo ſhall we when we are in the land of promiſe.

James 1. 25.

Rom. 8. 12.

2. It is alſo true that we are freed from the curſe of the law and the Spirit of bondage or ſervile fear, which was produc'd by the curſes threatned to every tranſgreſſor without the abatements of infirmity & the allowances of repentance; and we are adopted into a liberty of the ſons of God, we can *cry Abba Father*, and God will uſe us not with the ſevere rights of a Lord, but with the ſweeteſt meaſures of a Fathers government. And what then? what is the effect of this liberty? By the Spirit of God we cry Abba Father, by him we have this liberty, therefore *we muſt live in the Spirit*: for though we be not under fear, yet we are under love; we are not under the curſe of the Law, yet we are under the duty; not under the coercive power of the firſt covenant, yet under the directive power of the Eternal Commandement. For the Spirit of God makes us ſons, yet none are ſons but ſuch as are *led by the Spirit*; and we are freed from the curſe and condemnation of the law, but not unleſs we *walk not after the Fleſh, but after the Spirit.*

Rom. 8. 1, & 14.

3. It is alſo true that we are freed *from the ceremonial Law*, the law of circumciſion, of meats and drinks and carnal ordinances. And what then? *uſe it charitably, and take heed leſt this liberty of yours become a ſtumbling-block to them that are weak.* Some there are that extend this to a liberty from all things that are indifferent, as meats and garments, and daies, and ceremonies and the like. Now if they mean that we are not bound to theſe things by any law of God under the Goſpel, it is very true; that is, Chriſt gave us no Commandement concerning them. But if it be meant that theſe things are left ſo free that there can be no accidental and temporary obligation, rule or limit made concerning them, this is that I am now diſputing againſt. But that this is no part of Chriſtian liberty purchas'd by the blood of Chriſt, is evident, becauſe things in their nature indifferent, that

1 Cor. 8. 9.

is,

is, concerning which there was no Commandement given, were alwaies free, and to say otherwise were a contradiction in the terms; and no drop of Christs blood could so vainly fall as to purchase for us what was done already by the nature of the thing. He onely rescinded the Laws of *Moses* concerning the instances commanded there; that is, those which were not indifferent, as being positively commanded, he return'd to their own nature, to be us'd in another dispensation, to be dispos'd of in another government, in a distinct manner, to other purposes, or (as occasion should serve) to be wholly let alone. But although Christ broke the yoke of *Moses*, and so left the instances and matters there us'd to their own indifference; yet he left it as indifferent to the Law-givers to make laws concerning them; for he gave no commandement that they should always be left indifferent as to external usages. Under *Moses* they were tied upon the conscience by God himself, and therefore unchangeably during that whole period; but now they are left to a temporary transient use and ministery, to doe good, or to promote order, or to combine government: and if Governors had not a freedome to use them in government, as well as private persons to use them if they would in their own persons, Christian liberty had been made for Subjects, and denied to Christian Princes and Christian Priests.

4. There is yet another liberty called *the liberty of glory*, or the glorious liberty of the children of God; that is, the *Redemption of our bodies* from disease and pain, from death and corruption: but for this we must stay till the last adoption: For what Christ is by generation and proper inheritance, that we shall be by adoption if we belong to him. Now of Christ in his Resurrection it was said, *Thou art my Son, this day have I begotten thee.* That was the last generation or right of Sonship, to which when we are adopted we shall be partakers of the glory; but *that* was at Christs Resurrection, and *this* shall be in ours. Rom. 8. 21. Acts 13. 33.

5. Now here being in the days of the Apostles so much talk of liberty, and that in so many instances, and (without question) made the subject of many Sermons, and much Table-talk, and many disputes, and us'd as an argument to perswade strangers, and to comfort the faithful, and the Devil being so ready to make use of any prepared lust, or mistake, or ignorance, or fancy; it could not be but many weak and many false persons did instantly dream of a temporal liberty, that Sons were free from the laws of Parents, Wives of Husbands, Servants of Masters, Subjects of Princes: the Apostles knowing how great a confusion this would be to all relations and states of men, and what an infinite reproach it would be to the Religion, stopt this avenue of mischief, and not onely dogmatically describ'd the duties of all inferiours, but took care also to doe it in those places where they had occasion to speak of Christian liberty, that there might be no pretence to doe evil. For Christianity neither could nor ought to have been received, if the Preachers of it had destroyed Governments. The effect of this discourse is plainly this, That Christian liberty does not warrant disobedience to humane Laws, or liberty from their obligation. Whereas therefore the Apostle says, *Ye are bought with a price, be not ye the servants of men*; it is not to be understood of the conscience or mind of men, as the objection affirms, but onely is an advice of prudence, to the purpose of the preceding words in the 21. verse, *If thou mayest be made free, use it rather*: that is, since it is more convenient for the advantages of Religion, and the service of Christ, by the price of whose blood you are 1 Cor. 7. 23.

redeemed that ye may ſerve him all your days, therefore you who are free, be not eaſy to give or part with your liberty, but uſe your ſtate of liberty for the advantage of the ſervice of Chriſt; for that nothing elſe is meant, appears in the words he immediately ſubjoyns, *Brethren, let every man wherein he is called, therein abide with God:* that is, your being the ſervants of men is not inconſiſtent with your ſervice of God, nor that ſervitude incompoſſible with Chriſtian liberty. But yet ſuppoſe that the interpretation us'd in the objection be right, and that, *Be not ye the ſervants of men*, is to be underſtood of the conſcience or mind of man; yet, ſave onely that it was not ſo intended by the Apoſtle, it can doe no harm to this Queſtion: for the underſtanding and the mind may be free, when the hands are tied, and a man may have the liberty of opining and judging, when he may not have the liberty of acting, which is all is pretended to by the Empire of humane Laws. For as *Origen* excellently, This is nothing but an intellectual liberty, concerning which let a man contend in an intellectual and Evangelical manner, that is, by good arguments and the ſpirit of meekneſs, and there is no harm done. This is the whole ſumme of the doctrine of Chriſtian liberty. Concerning which if any man deſire to reade more words, and longer diſcourſes, and ſome intrigues, he may pleaſe to ſee them in *Driedo*, who hath written three Books, and *Belliolanus*, who hath written twenty Books of *Chriſtian liberty*.

Verſe 24.

Vide etiam Franciſci de Silveſtris opuſculum de Evangelica libertate.

29. To the fourth I have already anſwered both in the beginning and end of the anſwer to the former, and it proves nothing but what is granted. For to uſe the ſame inſtance; You may faſt when you are commanded by your Superiour, but you muſt not think that faſting is a part of the Divine Service. It is true, it is no part of Divine Service, the faſting of it ſelf is not, but the faſting in obedience is. For though man commands faſting now, or ſo, and God does not, yet God commands that we ſhould obey thoſe commands of men; and then the conſcience is συνείδησις Θεοῦ, *the conſcience of God*, or *toward God*, it is his ſubject and ſervant, and his liegeman: and yet at the ſame time the law of man pretends not to rule the conſcience immediately, and therefore the conſcience is free, and may judge the thing of it ſelf to be no Divine Commandement; but the will is not free, and the duty is bound upon that, when the underſtanding is at liberty. *Errat enim ſi quis putat ſervitutem in totum hominem deſcendere; pars enim melior excepta eſt. Corpora obnoxia ſunt, & adſcripta Dominis, mens ſui juris eſt*, ſaid *Seneca*, and from him *Aquinas*. The whole man is not in ſubjection; the body indeed is under Lords and Laws, but the mind is free as aire.

If a man have but a right underſtanding that it is all one before God to eat fleſh or egges, milk or fiſh; that to him it matters not whether you wear a red or a white garment in your times of ſolemn prayer; this is enough, ſays *Calvin* [*lib.* 3. *cap.* 19. §. 10. *inſtit.*] he need not tie himſelf to either, but if he does, his conſcience is ſtill free, though his action or choice be determined. And ſo it is though the law of his Superiour determines him.

1 Pet. 2. 19.

De benefic. 3. 2. 2x q. 104. art. 5.

30. To the fifth I anſwer, by denying the conſequence of the argument. For though humane Laws doe bind the conſcience, yet it follows not that it is put into the power of man to ſave or damne his brother; becauſe humane Laws bind the conſcience, but not by force of humane authority preciſely, or in it ſelf, but by virtue of the Divine Commandement: and therefore a Prince cannot make a law and threaten damnation to the breakers of it, becauſe he cannot inflict it; but he may ſay, that he that breaks it will ſin againſt God, and God will inflict damnation upon the rebellious and diſobedient. But then whereas it is objected that this makes the broad way

way to hell broader, it is a meer ſcar-crow; for God onely can inlarge or ſtreighten this way efficiently and formally; but *objectivè & occaſionaliter*, by way of inſtance and occaſion, by giving new laws to endear obedience in new inſtances when it is for the publick good, hath in it no inconvenience: every Miniſter of the Word and Sacraments, by every invitation of his people to a more ſtrict Religion, does make the damnation of the diſobedient greater, and by every check of conſcience, and by every opinion of our own we become a law unto our ſelves, and make the way of our converſation narrower; and every offer of grace, and every call of the Spirit does adde moments to the eternal miſery of them that doe reſiſt; and yet it were not well to be without them, for fear of that accidental evil. For it is to be conſidered that theſe aids, and all good Laws are intended for good to us, and will bring good to us if we obey; but the very reward it ſelf being offered, makes alſo our puniſhment juſt and reaſonable if we refuſe. *Ex te tua perditio.* The Law is not in fault, but the rebellious man ruines himſelf, who by occaſion of the Law might have receiv'd an increaſe of glory if he had pleas'd.

31. To the ſixth the anſwer is given in the premiſſes: Humane authority does not make the action of diſobedience to be a ſin. It makes that the not compliance of the Subject is *diſobedience*; but it is the authority of God who makes *diſobedience* to be a ſin: and though no humane power can give or take grace away; yet we may remember that we our ſelves throw away Gods grace, or abuſe it, or neglect it, when we will not make uſe of it to the purpoſes of humility, charity and obedience, all which are concerned in our ſubordination to the Laws.

32. The ſeventh objection hath two parts; the one concerns the civil power, the other the power Eccleſiaſtical. Concerning the civil, it is affirm'd to be unreaſonable that the power which cannot remit ſins ſhould bind to ſin; & therefore the civil power cannot bind the conſcience, becauſe it cannot remit the ſin to which it binds. In which argument there are four terms, and therefore it is a perfect fallacy. For it is true that it is reaſonable that the power which binds ſhould alſo looſe: but that the civil power cannot looſe in the ſame ſenſe in which it can bind is falſe; for the civil power can untie that which it hath tied, unleſs by tying be meant tying to one thing, and looſing be meant of another. The civil power binds to obey; the ſame power can untie this band, by diſpenſing with the perſon or abrogating the Law. But when it is ſaid, the civil power cannot remit the ſin, therefore not bind to ſin, it is a Sophiſm, becauſe binding and looſing doe not ſignify in the ſame manner. For it does but accidentally bind to ſin, and in the ſame manner it does alſo eaſe the conſcience: it makes the Law to which God binds the conſcience; it takes off the Law, and from the conſcience God takes off the obligation. But becauſe it does not by it ſelf bind the conſcience, but occaſions the conſcience to be bound by God, therefore it hath nothing to doe to remit the ſin, for that muſt be the act of God; but the Law can looſe what it bound, and where it bound, and as it bound, that is, not the ſin, but the ſubject matter, the inſtance and the occaſion. *** But now concerning the Eccleſiaſtical power, the objection ſays that it hath no power to make Laws, but ſuch as are in the matter already decreed by God; and therefore it does not bind but what God hath bound already; and conſequently hath of it ſelf no power to bind the

the conſcience. To this I anſwer, 1. that it is true, neither the Eccleſiaſtical nor the Civil power does by its innate authority oblige the conſcience; but both powers can make Laws, to the obſervation of which God doth oblige conſcience. 2. It is an error to ſay that the Eccleſiaſtick power cannot make laws in things not decreed by God. For the ſupreme Civil power is alſo Eccleſiaſtical if it be Chriſtian, and hath a power in the external regiment of the Church; and therefore to make Laws in ſuch parts and accidents of Government in which God hath left no ſpecial direction: and for the proper power of the Eccleſiaſticks, that alſo extends beyond the giving commandements in matters of expreſs duty commanded by God; as I ſhall make appear in its own place. 3. If it were granted that the Church could not make Laws in things not decreed by God, yet when God hath decreed the thing, the Church can make Laws concerning the order of the things, the meaſure and the manner, the number and the weight, the adjuncts and the circumſtances; and that's a field large enough for her to make Laws to oblige the conſcience. And therefore although it were ridiculous and contemptible, injurious and uncharitable for the Church to paſs her greateſt cenſures upon perſons that tranſgreſs *bono animo*, or through unavoidable infirmity, in ſmall inconſiderable inſtances, circumſtances and unconcerning forms of law and unconſider'd ceremonies; yet the ſmalleſt thing may be plac'd ſo as to be of great concernment; and when theſe things accidentally become great, the cenſures of the Church may be prudently and charitably inflicted. But what power the Church hath in making Laws will afterwards be conſidered in its place; thus much was of preſent neceſſity for the anſwer of the objection.

33. To the laſt there might be many anſwers given, It may ſuffice that the argument is expreſly falſe; for ſuppoſing that humane Laws doe directly bind the conſcience, it does not follow that it is as great a ſin to break the Laws of Man, as to violate the Laws of God: that it is a ſin it does follow, but not that it is ſo great. For the law of God againſt idle words does oblige the conſcience, but it does not therefore follow that it is as great a ſin to talk idly as to kill a man. But this Sophiſm relies upon this falſe ſuppoſition, That all things that bind the conſcience doe bind in the ſame degree, to the ſame meaſures of iniquity. For if they doe not, then humane Lawes may bind the conſcience, and yet they may be broken at an eaſier rate then the Commandements of God. 2. But then I adde, that this is according to the ſubject matter, and the evil conſequent of the action. For ſuppoſe a Prince oppreſſed by a Rebel party, as *Pompey* was by *Caſar*; *Photinus* that told the King of *Egypt* where he lay hid did a greater fault then if he had rail'd upon *Pompey*, expreſly againſt the Commandement, *thou ſhalt not ſpeak evil of the Ruler of the people.* To open the ſecrets of a King may be a greater ſin, and doe more miſchief, and proceed from greater malice then to call my brother *Fool*. For a Souldier to deſert his ſtation may be a greater crime then to ſteal a ſhilling. 3. And yet it cannot be denied, but that there is great difference between the Laws of God and the Laws of Man in their obligation. Concerning which, in order to many caſes of conſcience, it is fit that I give account.

The

The difference of Divine and Humane laws in their obligation.

34. 1. The law of God binds the Conſcience immediately, and by the right of God; the law of man binds the Conſcience mediately, and by the interpoſition of the Divine authority: ſo that we muſt obey Man for Gods ſake, and God for his own.

35. 2. The laws of God bind the will and the underſtanding; that is, we are bound to obey, and bound to think them good. But humane laws meddle not with the underſtanding; for that's a Prince, and can be governed as he can be perſwaded, but ſubject to the empire of none but God: but the will is the ſubject of humane laws; not onely that the will be bound to command the inferior faculties and members to obey and doe the work of the law, but of it ſelf preciſely it is bound: for it is not enough that we doe the outward works, but the will muſt be of it ſelf obedient. *Whatſoever ye doe, doe it heartily,* ἐκ ψυχῆς ἐργάζεσθε, *doe it from your very Soul*; that is, cheerfully, willingly, without murmuring: ὡς τῷ Κυρίῳ, καὶ οὐκ ἀνθρώποις, *for ye doe it not to men, but to the Lord.* Col. 3. 23.

36. 3. The Divine laws are laſting and perpetual; but humane laws ceaſe to bind the conſcience, by deſuetude, by contraition, by contrary reaſon, by intolerable inconvenience, by diſpenſation, and laſtly by abrogation.

37. 4. Divine laws oblige the Conſcience not only to an *active obedience*, but to *activity* and earneſtneſs to doe them, to ſeek opportunities, to omit none to doe them preſently. Humane laws oblige to an active obedience, but not to a ſpontaneous offer, and ultroneous ſeeking of opportunities. It may be a ſin, it is alwaies an infirmity, to ſeek for excuſes and diſpenſations in Divine laws; but it is lawful by all fair means to ſeek to be freed from the band of any humane law that is not of publick concernment, and is of private incommodity. A man may decline a burden of the law, or ſeek a priviledge and exemption. The Citizens of *Rome* were tied to keep guards in courſe, and doe other duties; but he that had three children, had a right of exemption; and he that hath none may lawfully deſire and petition for the priviledge. The burden of a humane law may be thruſt upon another, if it be done by juſt and charitable means; but in the laws of God every man muſt bear his own burden chuſingly and delightfully.

38. 5. Humane laws onely conſider the outward action, not the ſecret opinion; you muſt obey Man, when at the ſame time without ſin you may believe the law to be imprudent, or imperfect, or fit to be annull'd. But in the laws of God we muſt ſubmit our moſt ſecret thoughts, and we muſt be ſure ſo to obey humane laws, as we keep for God the prerogative of his: but though to God we muſt give account of our thoughts, yet humane laws meddle not with them at all. *Cogitationis pœnam nemo meretur*, ſaith the law, *ff. de pœnis.*

39. 6. Humane laws oblige onely that they be not deſpis'd, that is, that they be not tranſgreſſed without a reaſonable cauſe: but the laws of God muſt be obeyed in all caſes; and there is no cauſe to break them, and there can be no neceſſity upon us to commit a ſin. In the obedience to humane

humane laws we may ſuppoſe there was a weakneſs in the Sanction, they could not foreſee the evil that was future, the inconveniences upon ſome men, the impoſſibilities of many, the intolerable burden upon others: and therefore although a reaſon is alwaies to be had when we doe not obey, and that a good one; yet the reaſon and the goodneſs of it is not to be the greateſt and the beſt, or to be exacted according to the ſtricteſt meaſures of neceſſity alone. For though the laws of God bind to obedience without diſpute, without diminution, without excuſe, and in all neceſſities and accidents that can ſupervene; yet beyond that which is good, that which is equal and probable and profitable, humane laws doe not bind: but of this in the ſequel.

40. 7. He that deſpiſes the law of God, dies for it; and he that *neglects* it is accounted to deſpiſe it: the not doing it is by interpretation a contempt of Gods law. He that deſpiſes humane laws, is alſo guilty before God: but he onely is accounted to deſpiſe it, that voluntarily and without reaſon diſobeys. But he that out of the multitude of other affairs, or an incurioufneſs of Spirit, unknowingly or ignorantly neglects it by not thinking of it, is in moſt caſes innocent before God; but is tied to ſubmit to the puniſhment if he be requir'd and deprehended. This onely is to be added, that a great and a diſſolute negligence even in humane laws is ſo far from excuſing the breach of the law, that it doubles the guilt: *Diſſoluta negligentia prope dolum eſt*, ſaith the law, *ff. mandati, l. fidejuſſor, & ff. de action. & obligat. l.* 1. §. *Is quoque.* A geat negligence is accounted malice.

41. 8. Ignorance of the laws of God excuſes no man, becauſe it is ſufficiently revealed to every man; and he is not onely bound to inquire much if there ſhould be need, but there is alſo ſo clear a communication of them, that a little inquiry will ſerve the turn, and therefore no man is here excus'd by ignorance. But in the laws of man ignorance is eaſier pleaded, and does more excuſe, and does unavoidably happen to many men in very many caſes; and they are leſs bound to inquire, and a leſs matter makes the ignorance probable and quit from malice: of all which a prudent and a good man is to be the Judge.

42. 9. When Divine and humane laws are oppos'd, theſe muſt alwaies yield to thoſe; and without diſpute God is to be obeyed rather then Man; and although we muſt obey Man for God, we muſt never obey Man againſt God: and therefore it was excellently counſell'd by *Ben-Sirach*, *Let not the reverence of any man cauſe thee to ſin.*

43. 10. As a conſequent to the former, all the Miniſters of Juſtice are bound to be more ſevere in exacting obedience to Gods laws then to their own in an equal or like matter; they muſt be eaſy in the matter of their own laws, and zealous for God: and this alſo does prove that where the effect, and the appendages and circumſtances doe not alter it, it is in the whole a leſs ſin to break a humane law then to break a Divine; that is, although both are ſins, yet in the nature of the action it is of a leſs degree of crime to break the law of our *ſuperior* then of our *ſupreme*, of *Man* then of *God.*

11. Divine

11. Divine laws are impos'd upon the people; but humane laws are
44. impos'd indeed, but commonly by their conſent, explicite or implicite, formal or interpretative, and without acceptation in a ſweet regiment may indeed, but are not uſually paſs'd into the ſanction and ſacredneſs of laws. For the civil government is not abſolute, and meer and ſupreme; but in ſome ſenſes, and to ſome purpoſes, and in ſome degrees, limited, conditional, precarious and mixt, full of need, and ſupported by them who are to be rul'd, who therefore are to be regarded. Vide Rule 6. of this chapter.

12. Some adde this; the Divine laws bind both in publick and in private, the humane in publick onely: that is, becauſe humane laws take no cogniſance of what is ſecret, therefore neither doe they of themſelves bind in ſecret. But this although in ſpeculation it hath ſome truth, yet when it is reduc'd to practice, the conſideration is different. For though Mans laws know not what is in ſecret, & therefore cannot judge; yet God, that binds humane laws upon our conſciences, knows the moſt ſecret breach of laws, and he judges and diſcerns. But this hath ſome difficulties in it, and many very material conſiderations, & therefore is to be diſtinctly handled in ſome of the following pages. This onely for the preſent. When in private we can be excus'd or innocent before God; in that private, & in thoſe circumſtances humane laws oblige not. But Gods laws equally oblige both in publick and private, reſpectively to the ſubject matter. Of themſelves humane laws have nothing to doe with private actions; that is, neither with the obligation, nor the notice. Rule 4. of this chapter.

45. There are many other material differences between the laws of God and man, as to their obligation upon Conſcience; which I ſhall afterwards explicate upon the occaſion of particular rules. The great ſumme of all is this, ſo far as relates to Conſcience; the law of God binds ſtronger, and in more caſes then humane laws. A breach of a humane law is not ſo great a ſin, nor is it ſo often a ſin, as a breach of the Divine; the advantage both in the extenſion and the intenſion being (as there is all reaſon it ſhould) on the part of God; that God who is in all, may be above all.

46. Thus they differ, but in order to the verification of the Rule, it is to be remembred that in the main obligation of Conſcience they doe agree. The Divine law places things in the order of vertue and vice; and the Sacraments are therefore good becauſe they are appointed by Chriſt, our great Law-giver, and in the old law the eating of ſwines fleſh was therefore evil becauſe it was forbidden by the law of God. For all the goodneſs of Mans will conſiſts in a conformity to the will of God, which is the great rule and meaſure of humane actions. And juſt ſo it is in humane laws according to their proportion and degree: when the law of the Church commands faſting, to doe ſo then is an act of temperance as well as of obedience, and to diſobey is gluttony; and to wear cloth of gold is luxury when the law commands us to wear plain broad cloth. To give great gifts at marriages and feaſts may be magnificence; but if the law limits to a certain ſumme, to goe beyond is pride and prodigality. This is the work of God, though by the hands of *Moſes* & *Aaron*: for it matters not by what means he effects his own purpoſes; by himſelf, or by his power adminiſtred by ſecond cauſes. The ſumme is this, which I repreſent in the words of S. *Gregory Nazianzen*, *Submittamus nos tum Deo, tum aliis, tum iis qui Imperium in terra gerunt: Deo quidem omnibus de cauſis; alii autem aliis propter charitatis fœdus, principibus denique propter ordinem; publicæque diſciplinæ rationem.* *Let us ſubmit our ſelves to God, to one another, and to* Orat. 17.

Princes: to God for all the reaſon in the world; to one another for charity's ſake; to Princes for order's ſake, and the account of publick Government. But if we refuſe to obey Men, God will puniſh us; and if we refuſe to obey God, even the Prince ought to puniſh us; and both promote the intereſts of the ſame Kingdome. Κολάζεσθαι δὲ τοὺς μὴ ἀκολούθως τοῖς διδάγμασιν αὐτοῦ βιοῦντας, λεγομένους δὲ μόνον Χριστιανούς, καὶ ὑφ' ὑμῶν ἀξιοῦμεν, ſaith *Juſtin* Apolog. 2. pro Chriſt. *Martyr, We pray you,* O Kings and Princes, *to puniſh them who are Chriſtians onely in name, and doe not live according to the decrees of our Great Maſter:* and then for their own intereſt this is his account, Θεὸν μὲν μόνον προσκυνοῦμεν, ὑμῖν δὲ πρὸς τὰ ἄλλα χαίροντες ὑπηρετοῦμεν, βασιλεῖς καὶ ἄρχοντας ἀνθρώπων ὁμολογοῦντες· *We worſhip God alone, but in other things we gladly ſerve and obey you, confeſſing you to be the Kings and Princes of the people.* I conLib. 1. de præcept. & diſpenſ. c. 11, 12. clude this in the words of S. *Bernard, Sive Deus, ſive homo mandatum quodcunque tradiderit, pari profecto obſequendum eſt cura, pari reverentia deferendum, A law, whether given by God or by man, is to be obſerv'd by a like care and a like reverence*; alike in the kind, but not in the degree. *

* *Videat lector Latomi librum [de Eccleſia & legis humanæ obligatione] & Claudium Carninum [de vi & poteſtate legum humanarum] Cajetanum verb. præceptum, Navarrum, Card. Tolctum de hac materia in libello de 7. peccatis mortal.*

Rule II.

Humane laws doe not oblige the Conſcience to an active obedience, when there is an imminent danger of death, or an intolerable, or very grievous evil in the obedience.

1. This Rule is to be underſtood to be true regularly and ordinarily, and in laws purely humane; that is, ſuch which are not commentaries or defenſatives of a natural and a Divine law. For if the forbidden action have in it any thing that is intrinſecally evil, then the action muſt not be done, though to ſave our lives: for no ſin ought to be the price of our life, and we ought not to exchange an eternal life for a temporal. Here our Bleſſed Saviour's words are plain, *Fear not them which can kill the body*; and *what profit have you, if you gain the whole world and looſe your own ſoule?* and *it is better to goe into life maimed and blind, then having two feet or two eyes to goe into hell fire*; and *God is to be obeyed rather then man*; and *he that would ſave his life ſhall looſe it*; and divers others to the ſame purpoſe. Now when any thing of this nature is the ſubject matter of a humane law directly, or if the violation of any thing of a Divine Commandement be the conſequent of the breach of a humane law, then the humane law binds to its obſervation though with the loſs of our lives.

2. But the queſtion here is concerning meer humane laws eſtabliſhed in an indifferent matter; and in this it is that the Rule affirms that humane laws doe not bind to their obſervation with the danger of life. The reaſons are theſe,

3. 1. Becauſe the end of ſuch laws is onely the good and convenience of the lives of the Citizens. *Omnibus à natura bene informatis inſitum eſſe ut nemini*

nemini parere velint, niſi utilitatis cauſa & legitimè imperanti, ſaid *Cicero,* Lib. 1. Offic. Nature her ſelf teaches all wiſe men to obey Princes that govern by laws, and for the good of their Subjects. They therefore being wholly made to miniſter to the circumſtances of life, muſt not by our lives be miniſtred unto; nothing being more unnatural and unreaſonable then that a man ſhould be tied to part with his life for his convenience onely. It is not worth it, it is like burning a mans houſe to roſt his egges.

4. 2. *Eye for eye, and tooth for tooth, and all that a man hath he will give for his life:* it is indeed the voice of nature and of this world, there is no capacity to receive any good when our life is gone; and therefore nothing of this world can make a man recompence for his life. That Law therefore that pretends to doe advantages to our life, if it ſhall alſo require our life for the ſecuring ſuch advantages, takes away more good then it pretends to give, and makes the ſubſtance leſs principal then the acceſſary.

5. 3. If humane Laws doe admit of equity (as it is confeſſed by all men) there is no caſe ſo favourable as that of ſaving of our life: either then we are to ſuppoſe the Laws to be made of a rock, and to yeeld to nothing, but for ever to be a killing letter, and an inſtrument of the hardeſt bondage; or elſe at leaſt to be ſo compliant as to yeeld to her Citizens in the caſe of life and death.

6. 4. All humane power is given to man for his good, not for his hurt; *for edification, not for deſtruction.* But it very often happens, and it is ſo in moſt laws that are meerly humane, that the good of the particular law is not ſo great as the ſaving the life of one man; and if ſuch laws ſhould not yeeld to the preſervation of ſo precious a life, it were a law made for evil and not for good, a ſnare and no defence, an enemy and no guardian or friend.

7. 5. Neceſſity is the band, and neceſſity is the ſolution of a law. *Neceſſitas facit licitum quod aliàs licitum non eſt,* ſaith *Alexander ad l. ſi ex toto, ff. de legibus.* To the ſame purpoſe is that of *Seneca, Neceſſitas magnum humanæ imbecillitatis patrocinium, quicquid cogit, excuſat, Neceſſity makes every thing lawful to which it does compel.* But of all neceſſities that is the greateſt which is the ſafety of our lives, and a reſcue from death: this caſe therefore is greater then the band of humane Laws.

8. 6. The laws of God in precepts purely affirmative doe not oblige to an actual obedience in the danger of death. That is, in ſuch poſitive laws of God which doe not involve a negative, of an intrinſick malice againſt a law of nature or of prime rectitude, the laws of God intend not to oblige, when death ſhall be the reward of him that does obey. Thus the *Maccabees* brake the reſt of the Sabbath to defend themſelves againſt their enemies; and the Prieſts for the uſes of Religion, and the Diſciples of Chriſt to ſatisfy their hunger; and Chriſt was their Advocate. Thus *David* and his followers did eat the Shew-bread expreſly againſt the commandement, but it was in his great need; and Chriſt alſo was his Advocate and defended the fact: and if a probable neceſſity, that is a great charity and relief, which is but the avenue and the addreſs of an extreme neceſſity, be a ſufficient excuſe from the actual obſervation of a law of God, poſitive and

affirmative, much more ſhall an extreme neceſſity excuſe from ſuch a law, and therefore yet more ſtrongly does it conclude againſt the preſſure of a humane law in ſuch caſes. And therefore the Church hath declared that the Eccleſiaſtical laws of faſting doe not oblige in caſe of ſickneſs or old age, or journey and great laſſitude, *cap. conſilium de obſervatione jejunii:* and thus alſo no man is bound to goe to Church on a feſtival to hear Divine Service when an enemy lies in wait to kill him: that is, the laws of the Church were intended for the good of the ſoul, and therefore not ſuffer'd to doe hurt to the body; and as God affirms he will have mercy and not ſacrifice, and therefore himſelf makes his own laws, that can yeeld at all, to yeeld to the occaſions and calls of mercy: ſo does the Church in the imitation of God, whoſe laws and gentleneſs is our beſt meaſure; not that every little excuſe and trifling pretence can excuſe, but the danger of death, or ſickneſs, or ſome very great evil reaſonably fear'd; of which I ſhall by and by give an account.

9. Although the Rule thus underſtood be certain and evident for theſe reaſons, yet there are ſome *adverſaria* or ſeeming oppoſitions very fit to be conſidered; becauſe although they doe not evacuate the intent of the Rule, yet they give limit and further explication to it.

10. 1. *Cajetan* affirms every law that binds under pain of mortal ſin, does alſo bind to obedience though death attend it; and his reaſon is, becauſe we muſt rather die then commit a ſin: and therefore let the inſtance be what it will, if it ties to obedience by obliging the conſcience, it is a ſin to diſobey, and rather then ſin we muſt chuſe to die. 2. * And that no man ſhould queſtion the power of the Superiour in obliging to ſuffer death, we find by the practice and conſent of all the world that Princes can call their Subjects to battel, and command their Officers upon dangerous ſervices, and the Souldiers are bound not to deſert their ſtation; and the Maſter of the Ship was oblig'd to put to Sea in a ſtorm when *Cæſar* bade him. 3. * For ſince the law is intended for a publick good, the private intereſt (be it never ſo great) is not to be put in ballance againſt it. And therefore as it is in the Laws of God, and in the confeſſion of faith, the brave ſons of *Eleazar* did ſuffer death with torments rather then eat ſwines fleſh, and the Martyrs gave their lives in a willing ſacrifice rather then deny their faith: ſo in their proportion it muſt be in the laws of men, they muſt be kept up though we die for it. *Melius eſt ut unus quàm Unitas, It is expedient that one man die for the people*, one member for the whole body, rather one then the unity be diſſolv'd, and the community ruin'd.

11. To theſe things I anſwer, firſt, that the propoſition of *Cajetan* is not true in its latitude. For whatever binds to obedience under pain of ſin, does not intend to bind to obedience with the loſs of our life under ſin. It is true that we muſt rather die then ſin; but we doe not ſin in not obeying, when he that obeys ſhall die for it; and that being the queſtion ought not to be preſum'd by any opponent in prejudice of truth or probability. Humane laws bind to obedience, and Gods law annexes the penalty of ſin; but then Gods law coming in to ſecond mans law, ſeconds it but in what it would oblige. But humane Laws doe not intend, regularly and in all caſes to be obeyed with the loſs of life or limb; and when the Law does not ſufficiently expreſs ſuch intention, we are to preſume for liberty

liberty and mercy. * Now that which follows is true in ſome ſenſe; the publick is to be preferr'd before the private, and the ſupreme power can oblige the Subjects to ſuffer death or to venture their lives: but this cannot be in all caſes. For if in all, then is the Magiſtrate the Lord of life and death, which is Gods peculiar; but if he could in no caſe, then he were not the miniſter of life and death, which is communicated to the Magiſtrate. The inquiry therefore now is, ſince regularly he cannot, and yet extraordinarily the ſupreme power can tie on his laws upon our ſhoulders with the cords of death, in what caſes this is true, and in what it fails.

12. 1. When a Law is decreed by man with the appendage of a penalty of death for its ſanction, it can bind to obedience though death be in it. For ſince the matter of the law is by the Legiſlative power valued at the price of our lives, and by accident the very keeping of it as well as the breaking is ſet at no leſs price, the evils of either ſide being equal, the preſumption and advantage muſt be on the part of juſtice and the law, not for injuſtice, tyranny and diſobedience. And ſo much the rather, becauſe that the obedience ſhould cauſe death is but rare and accidental, not foreſeen, but ſeldome happening; but the law threatning death to the diſobedient is a regular, conſtant, obſerved, and declared proviſion: and therefore that which is for good, and regularly is eſtabliſhed by the fear of death, is not to be put out of countenance by a contingent, rare and extraordinary fear, and which alſo is intended for evil; for which in this caſe there could be no proviſion, and therefore there ought to be no regard. But this holds onely in caſe that death on either ſide be equally certain; for if it be certain the obedient man ſhall die by the hand of a Tyrant, or an accident that is prepar'd, and it be likely he may eſcape from the hands of the law by concealment, or by the relief of equity or charity, then the natural right of ſelf-preſervation will be his apology; this man deſpiſes not the law, but extricates himſelf as well as he can, and for a reaſon, which of all conſiderations meerly humane is the greateſt.

13. 2. When the Tyrant power threatens death to obedient Subjects, for no other end but that the Subject ſhould contemn the law, then the Superiour can oblige us to obedience though we die for it. For it is in this as in thoſe poſitive and affirmative laws of God, which although they yeeld to ſave the Subjects life, yet they will never yeeld in the corruption of the Subjects manners: that is, they yeeld in charity, but not to ſerve a Tyrants luſt. And thus we underſtand the reaſon of the difference between the ceſſion of the law of the Sabbath in the caſe of the Maccabees, and the not ceſſion of the prohibition of ſwines-fleſh in the caſe of the Jewiſh ſubjects. For the fear of death was equal to them both: if the Princes did not fight upon the Sabbath, they ſhould be cut in pieces; and if the Subjects did not eat ſwines-fleſh, they ſhould die with torments. But they preſerv'd themſelves, and theſe did not, and both were innocent. The reaſon of the difference is plainly this; They that offer'd ſwines-fleſh to theſe did it as *enemies of the Religion*; they that fought with thoſe upon the Sabbath did it as *enemies of the Nation*, onely they would take advantage by the prohibitions of the Religion. Now when death is threatned by the *enemies of the Religion*, it is with purpoſe to affront it, or deſtroy it; and therefore if the Mother and her ſeven ſons had complied, it had been a renouncing of their faith and their religion, and a contempt of their

law; which could not be ſuppoſed in the other caſe of the Princes, not onely becauſe both the Princes and the Army could not be ſuppoſed to be deſpiſers of the law, but alſo becauſe that very breaking of the law, was with fighting in the defence of the law and the whole Nation. And ſo it is in humane Laws: The ſacredneſs of the Authority may be eſtabliſhed with our life; and becauſe to contemn them is always a ſin, we muſt rather die then doe it, though the matter of it ſelf be leſs and doe not require it. But this is alſo to be limited. For it is true that we muſt rather die then contemn the laws, but yet he that breaks them for no other reaſon then to ſave his life, is not a contemner of the law, for he hath great reaſon, and a great neceſſity; and therefore it is not contempt, but is to be preſum'd the contrary, therefore this is to be underſtood, when

1. Either the law expreſly commands we ſhould die rather then break it. Or

2. Hath declar'd that in ſuch circumſtances to comply ſhall be a contempt by interpretation. Or

3. When it is notorious that it is ſo intended by the Tyrant power: and

4. The Law-giver expreſly requires our fortitude and reſiſtance; for unleſs it be in ſuch caſes, though the law can bind, yet it does not. The ſumme is this; when death is likely to be the conſequent of obedience by accident and the chance of things or the providence of God abſtractly, then it is not to be expounded to be contempt. Becauſe in ſuch caſes God tempts not. But when an enemy or a Tyrant power tempts with the fear of death, he does it in defiance of the law or the authority, and therefore here we muſt obey and die. And this diſtinction is very much to be regarded. For if a Prince or an Eccleſiaſtick Superiour make a Law, it is to be preſumed that they doe it not (for they have no intereſt to doe it) in deſpite of chance to binde to obedience in the danger of death: and therefore it is a rack of their power to extend it to ſuch a caſe. But they may have intereſt and publick neceſſity to exact this obedience when an oppoſite power threatens death, that they may deſtroy the Law.

14. 3. The ſame alſo is the caſe of [1] Scandal, or [2] injury to Religion, or [3] the Confeſſion of our faith, in all which caſes we are oblig'd to die rather then break a poſitive law of God or Man. And this is that which S. *Auſtin* ſaid, *Satius eſt fame mori quam idolothytis veſci, It is better to dit with hunger, then to ſave our lives by eating things ſacrificed to idols.* That is, when the ſo doing is an interpretative renunciation of our religion, or the laws of our Superiour forbidding it, or is a ſcandal to a weak brother. And this is it that S. *Paul* ſaid, *I will eat no fleſh as long as the world ſtands rather then cauſe my brother to offend.* But in this there is no difficulty.

Lib. de bono conjug. cap. 16.

15. 4. Humane Laws bind to their obſervation though with the danger of death, when that danger is either expreſly in the law, or in the matter and inſtance of it annexed to the obedience. Thus the ſupreme Power can command the Curates of ſouls to attend a Cure in the time of the Plague, to goe to Sea in a ſtorm, to ſtand in a breach for the defence of the Army. For in theſe caſes he that hath power to doe it, hath expreſly commanded it; and to undergoe the danger of death is of the ſubſtance of the action and obedience, and is neither beſides the intention nor the knowledge of the Law-giver: and therefore if the Law did not bind to obedience notwithſtanding the danger of death, it were no law at all. For to a Prince commanding

commanding to goe to Sea in a ſtorm, it is in vain to ſay it is a ſtorm; and that Souldier is a fool that tells his General he is afraid to die, when he ſends him upon an honourable ſervice.

16. 5. But all theſe caſes are to be provided ſo that they be *in gravi materia*, that the cauſe be great, and the neceſſity urgent, and the publick good concerned, for mens lives are not to be jeſted away: and though *Scipio Major* had power to carry his three hundred brave fellows (that he ſo boaſted of in *Sicily*) to the African warre, yet he had no power to command them to run up the neighbouring Tower and leap headlong into the Sea for bravery and to ſhew his power.

17. 6. One thing more is to be added. In thoſe caſes in which humane Laws doe oblige even in the danger of death, they doe not oblige but for their whole portion; that is, when the whole end of the law is not deſtroyed or hazarded by the diſobedience, but that the caution and end of the law may be ſecur'd and obſerv'd in all or in the greateſt part; a man may then by not obſerving the law, ſave his own life and be innocent. And this is the rule of *Aquinas*, and it is very reaſonable, *Quando eſt cauſa rationabilis, & non impeditur finis legis, non peccat mortaliter qui non obſervat legem, Upon a juſt cauſe a man may without a crime break a law, when by ſuch tranſgreſſion the end of the law is not hindred.* As if a law be made that corn ſhall not be tranſported, becauſe of an imminent famine, and for the preſervation of the Citizens, if any man to ſave his life ſhall comply with an inevitable accident and neceſſity, and carry ſome abroad, his neceſſity is a juſt excuſe, becauſe he hath not deſtroyed the end of the law, ſince his proportion and lading cauſes no ſenſible detriment to the publick: and though every ſingle man muſt not pretend that his ſingle proportion will be no great matter (becauſe that is not ſufficient unleſs there be a great neceſſity to doe it;) yet when there is ſuch a neceſſity, it will ſuffice that he did it not but upon a violent need, and what he did was not a deſtruction to the end of the law; and his example cannot have any evil effect of it ſelf; for other men cannot ſay, Why may not I as well as he? Unleſs the neceſſity be as exemplary as the action, and unleſs they be in the like evident danger of death, they cannot pretend to the like impunity. They that are in no danger may not, but he that is may, when the Subjects ſafety can ſtand with the ſafety of the publick. For although the head may expoſe one member to loſs and amputation to preſerve the whole, yet when the whole can be ſafe without it, the member may preſerve it ſelf and refuſe to be cut off: and *nothing is greater then the ſafety of a part, but the ſafety of the whole.*

18. But the Rule affirms that not onely danger of death, but the avoyding of a very grievous and intolerable evil is ſufficient to excuſe diſobedience to humane Laws from being a ſin. But this is particularly to be conſidered in the following Rules.

Rule III.

The Laws of our Superiour that are not juſt and good, doe not oblige the Conſcience.

1. Laws are publick miſchiefs if they bind to injuſtice; and therefore to eſtabliſh any thing that is unjuſt or evil is againſt the nature of Laws, and the power of the Superiour, and the intendment of the Supreme. For God gives to no man power above or againſt himſelf.

Now a Law is unjuſt upon many defects.

2. 1. If it be made by an incompetent perſon, that is, one who hath no authority. *Cajus* and *Sejus* were fellow-ſervants to *Ruricanus*. *Cajus* commands *Sejus* to goe to plough. *Sejus* demands, *quo jure?* And he was in the right. *Cajus* was the wiſer man, and he was the older, and better imployed, but he was not his Lord. *Par in parem imperium non habet*, ſays the Law.

Clement. Exivi de Paradiſo, de verb. ſignif.

3. 2. If it be made in an incompetent and undue matter. When *Saul* commanded the man of *Amalek*, *Sta ſuper me, & interfice me*, Fall upon me and kill me; he was indeed a Prince, but in that matter he could make no law, and therefore was not to be obeyed. And the Ancients tell that when *Mercury* was accus'd for the murder of *Argus*, though he pleaded that he did it by the command of *Jupiter*, yet the Gods did not acquit him: and though *Marc Anthony* did worſe for his own revenge to kill *Cicero*, yet *Pothinus* did ill too when he kill'd the brave *Pompey*, though at the command of his Maſter *Ptolemy*.

Antoni tamen eſt pejor quàm cauſa Pothini;
Hic facinus Domino præſtitit, ille ſibi.

Anthony was infinitely to be condemn'd, and *Pothinus* not to be juſtified. And upon this account, every law made againſt Religion, or any thing of Divine ſanction and commandement, is void, and cannot oblige the conſcience. To which purpoſe who pleaſe, may read an excellent diſcourſe of S. *Bernard* in his ſeventh Epiſtle which is to *Adam* the Monk. Upon this account a Thief cannot begin a preſcription againſt the right of the juſt owner, becauſe his theft being againſt the law of God, cannot begin a juſt title by the laws of men. Thus although the laws * permit a man to poſſeſs what by an unjuſt price or bargain he hath acquir'd, yet becauſe this is unjuſt and uncharitable to deceive his neighbour, the injurious perſon is bound to reſtore, and is not indemnified before God by any warranty from the contrary civil law: *Ye ſhall not lie*, ſaith our Lord God, *nor deceive every one his neighbour:* and let *no man defraud* or *circumvent his neighbour in bargaining*, ſaith S. *Paul.* χρῆ τὴν ἀγορὰν ἀψευδῆναι, ſaid the old Attick law, from the voice of nature; which *Cicero* well renders, *tollendum eſſe ex rebus contrahendis omne mendacium, no lie muſt at all be uſed in bargaining:* and therefore the law of man to the contrary is invalid; though I ſuppoſe the civil Law intends onely to barre an action in the outward Court, but not to give warrant to the conſcience.

* L. in cauſæ. §. idem Pomponius. ff. de minoribus. & l. item ſi precio. §. quemadmodum. ff. locati & conducti.

Levit. 19.

1 Theſſ. 4.

3. Humane

4. 3. Humane laws may be unjuſt when a juſt power in a competent matter paſſes on to exceſs, and goes beyond it's bounds. He that excommunicates one that is not of his Dioceſs does not oblige the excommunicate perſon by the ſentence: and *Pilate* had nothing to doe with the Holy Jeſus till *Herod* had ſent him back to him; for to his juriſdiction he did belong. Thus if a Prieſt or a Biſhop abſolves a guilty perſon, he binds himſelf, but looſes not the other. For no exceſs of power produces any effect of law, or tie upon the Conſcience. And to this purpoſe is that Rule of the law, *Sententia non à ſuo Judice lata, nulla eſt*: which is excellently rendred by S. *Paul*, *What art thou, O man, who judgeſt another mans ſervant?* Upon this account, all humane laws preſcribing to the Conſcience, or giving bounds to the thoughts, are null. For in theſe things God onely is Judge, and all other Judicatories are incompetent: I ſay all other *judicatories*; for as for ſentences declaratory of a Divine law, that is not under this reſtraint. But of that in it's own place.

Cap. at ſi Clerici. in princip. de Judi. Rom. 14.

5. 4. Humane laws may be unjuſt, by a defect of the juſt and due end; that is, when the law does not contribute to the publick advantage, but wholly to his private who made the law. If the law be apt to miniſter to the publick good, whatever the private intereſt and deſign of the Prince be, it may ſpoil the man but not the law. If a Prince eſpying the luxury of feaſts and garments make ſumptuary laws, and impoſe fines upon the tranſgreſſors, and does this onely to get the money, indeed he is not a good man; but ſo long as the law is good, it does oblige the Conſcience. The enemies of the memory of K. *Henry* 8. of *England* pretend that he annull'd the *Popes* authority in *England* onely upon deſigns of luſt and revenge. Suppoſe this true; yet as long as he did good, though for evil ends, it is the worſe for him, but not for us; but if the Prince does not, yet the law muſt intend the publick benefit: and that alſo is the duty of the Prince. *Non proſpectantes proprii jura commodi, ſed conſulentes patriæ atque genti*, ſaid the Fathers of the eighth Council of *Toledo*. Kings muſt not look after their own profit, but make proviſions for their country and their people. *Officium eſt imperare, non regnum*, To rule is not empire, but office, ſaid *Seneca*; and therefore the Greeks call Kings ἄναχτας, ἀπὸ τῦ ἀνακῶς ἔχειν, ſaies *Plutarch*, that ſignifies perſons appointed to take care and to defend the people.

Cap. 10. Epiſt. 91.

Tu civem patremque geras, tu conſule cunctis,
Non tibi, nec tua te moveant ſed publica damna.

Claudian. ad Honor.

Take care of the publick, not of thy particular, and let the common calamity move thee moſt: and ſince the power it ſelf is deſigned for the publick good, the laws muſt be ſo too. And therefore when the law ſaies that a law ought to be a common precept; that is, *pro communi utilitate ſtatutum*, ſaies the gloſs, that is, *it muſt be for the common good. Conditur utilitatis gratiâ lex*, ſaies *Plato*, *every juſt law is made for the good of the people*: and from him *Marſilius Ficinus* defines a law to be, *a true manner of governing, which by profitable ways tends to the beſt end*, that is, *the publick good*; and *Iſidore* ſaies, *Lex erit omne quod ratione conſtiterit, duntaxat quod religioni congruat, quod diſciplinæ conveniat, quod ſaluti proficiat*, *A law is that which agrees with reaſon, that is conſonant to religion, and accords with diſcipline, and is profitable and does good.* And therefore if a Prince make a law which is for his own profit, and not for the publick good, he is a Tyrant; and his laws have no ſanction but fear, and noe tie at all upon the Conſcience.

L. 1. ff. de legibus. In Hippia. Lib. 3. cap. 3.

Conſcience. And this is the doctrine of *Ariſtotle*, Ὁ μὲν γὰρ τύραννος τὸ ἑαυτῷ συμφέρον σκοπεῖ· ὁ δὲ βασιλεὺς τὸ τῶν ἀρχομένων· A King and a Tyrant differ very much: *A Tyrant conſiders his own profit; a King the profit of his people*: and under this conſideration comes that Prince that laies grievous burthens upon his people. Τοὺς γὰρ τὰ μεγάλα μὴ ὅθεν δεῖ λαμβάνοντας, μηδὲ ἃ δεῖ, οἷον τοὺς τυράννους, πόλεις πορθοῦντας, καὶ ἱερὰ συλῶντας, οὐδὲ λέγομεν ἀνελευθέρους, ἀλλὰ πονηροὺς μᾶλλον καὶ ἀσεβεῖς καὶ ἀδίκους, *Thoſe that take great ſumms from them they ought not, and thoſe which they ought not, as Tyrants, deſtroyers of Cities and robbers of Temples, we doe not call them Covetous, but wicked, and impious, and unjuſt.* And therefore they who doe ſuch things by laws made on purpoſe, doe it by tyranny, and therefore not by law, or juſt authority, & conſequently by none. In ſuch caſes we muſt ſuffer as it happens: but we may avoid the burden of the law, where we can peaceably and privately. For all ſuch things as are againſt the good of the ſubjects, the law it ſelf declares to be no law; that is, to be more then the ſuperior hath right or leave to doe. *Nulla juris actio aut benignitas patitur ut quæ ſalubriter pro hominum utilitate introducuntur, ea nos duriore interpretatione contra ipſorum commodum producamus ad ſeveritatem*, ſaies the law, *l. nulla, ff. de legibus: No law, no charity ſuffers us to make that by interpretation hard and againſt their profit, for whoſe profit it was firſt decreed by a ſalutary ſanction.* And therefore it is obſervable that all laws doe infinitely decline all harſh ſenſes, and are ambitious of gentle and benign interpretations; which is in the whole world the greateſt declaration that law-givers as they ought not, ſo they profeſs they doe not intend to grieve the ſubject by an unequal burden. It was a Princely ſaying of *Trajan*, when he put a ſword upon the thigh of the Prefect of the Prætorian bands, *Cape hunc, & ſi quidem rectè & ex utilitate omnium imperavero, pro me, ſin aliter, contra me utere, Uſe this ſword on my behalf if I govern rightly and to the publick benefit; if not, uſe it againſt me.* That was too much, but his purpoſe was excellent; he knew it was his duty to rule by that meaſure onely; beyond that his power was incompetent. Ὁ δὲ μὴ τοιοῦτος, κληρωτὸς ἂν τις εἴη βασιλεύς, ἢ δὲ τυραννὶς ἐξ ἐναντίας ταύτῃ, *He that does not ſo, is a King by fortune, but indeed a Tyrant, and any thing rather then a King.* τὸ γὰρ ἑαυτῷ ἀγαθὸν διώκει, ſaies *Ariſtotle*, *For he purſues his own*, not his peoples *good*: and that is φαυλότης μοναρχίας, *the ſtain of Monarchy*, that is, plainly Tyranny. *Tiberius* ſaid well, *Dixi & nunc & ſæpe alias, P. C. bonum & ſalutarem principem, quem vos tanta & tam libera poteſtate inſtruxiſtis, Senatui ſervire debere, & univerſis civibus; ſæpe ac plerumque etiam ſingulis, neque id dixiſſe me pœnitet.* A good and a gentle Prince ought to ſerve the profit of his Nobility, his Senate and Citizens; not onely all but each ſingle Citizen, as there is occaſion: and therefore *Rudolphus* of *Auſtria* was very angry with his Guards for hindring petitioners to come to him; Let them come, ſaies he, for I was not made an Emperor to be ſhut up in a box. *Sinite parvulos ad me venire* ſaith our Bl. Lord, the King of Kings, and the Lord of Lords, *Suffer my little ones to come unto me.* But the reaſon and demonſtration of all is contained in thoſe words of *Seneca*, ſaying a Prince ſhould think with himſelf, *Ego ex omnibus mortalibus placui electuſque ſum qui Deorum vice in terris fungerer, I am choſen from the heap of mortals to ſtand in the place of God*, to doe as he does; that is, to doe all things juſtly, and to doe all things for the benefit of the people: now ſince the Prince hath his power from God, he can have no power to doe otherwiſe then God does. *Admittere in animum totius reip. curam & populi*

Ethic. lib. 8. c. 10.

Lib. 4. Eth. cap. 1.

Ubi ſuprà.

De Clement. 1.

populi fata ſuſcipere, & oblitum quodammodo ſui, gentibus vivere; noctes omnes dieſque perpeti ſolicitudinem, pro ſalute omnium cogitare. So *Pliny* deſcribes the office of a Prince, *to take care of the whole republick, to live to them not to himſelf; daies and nights to ſuffer anxiety in thinking for the profit and welfare of all.* This is the limit of a Princes power ſo far as he relates to Conſcience. For beyond this the Conſcience is not bound. The body is, and we muſt ſuffer patiently the evil which we cannot deprecate; but laws that are made to purpoſes beyond theſe meaſures doe no waies oblige the Conſcience. *He is the Miniſter of God for thy good,* ſaith S. *Paul*; otherwiſe he is not Gods Miniſter, and hath to other purpoſes none of Gods authority, and therefore cannot oblige the Conſcience to an active obedience in ſuch where his power is incompetent to command.

6. 5. Thus, when a law by the change of things or caſes is become an enemy to the common good, it is not to be obſerved, ſaith *Aquinas*; and he gives this inſtance: A law is made that in the time of ſieges the gates of a City be alwaies kept ſhut; but the guards are not tied to obey this law, when the citizens fly thither from the danger of the enemy: and ſo in all equal caſes, concerning which this is the Rule.

7. The Prince is to be preſumed good and gentle; and if he be not ſo, he is to be ſuppos'd ſo, and made ſo at leaſt by fiction of law: whatſoever therefore caſe does happen in which the Citizens are grieved, it is to be ſuppoſed that it is beſides the intention of the law, and was not in the previſion of the Prince; but we are to rely upon this, That he who is good and gentle, and a Father of his Country, would, if he were here and obſerved this evil, untie the law, that he might not tie us to the evil: and becauſe he is not here, but his will is here, the law with ſo much evil to us is not to be obſerved; for his leave to break it is to be preſumed.

8. 6. Hither is to be reduced the injuſtice of unequal diſtributions; ſuch as is, a law forbidding beggers to goe from place to place to ſeek relief, when there is no relief at home; the law of commanding every village or pariſh to provide for their poor, which indeed is piouſly and charitably intended, but becauſe when it is reduc'd to practice it falls heavily upon ſome, and others touch it not with the top of their fingers, the law which was good *in theſi*, proves unjuſt *in hypotheſi*, and therefore does not oblige the Conſcience; but they who are under it, may not onely ſeek relief by petition, but by avoiding it where they can piouſly and charitably, according to the meaſures by and by to be deſcribed. For it is the voice of natural juſtice and reaſon, which S. *Paul* urges to his *charges*, *not that there ſhould be eaſe to one and burden to another:* this is againſt equity, as having in it ſo great diſproportionate inequality.

9. 7. Laſtly, of the ſame conſideration it is, that in the making laws of burden, there be equality and proportion between the burden and the cauſe of the impoſition; that the burden be not greater then the evil it intends to remedy, nor the remedy greater then the diſeaſe needs, nor yet greater then men can bare. For what is exceſſive in theſe caſes, is againſt the charity and juſtice of the Prince, and is matter of rapine and impiety, not of ſubſidy and prudent proviſions: and therefore though it may oppreſs the ſubject, who hath no remedy but prayers and tears; yet the Conſcience

is

is at liberty, and may procure remiſſions by any waies of peace and piety.

10. But in the reducing of this to practice, theſe cautions are to be obſerved.

1. That though the conſcience be free from all laws which are unjuſt upon any of theſe accounts, yet that the law be not diſobeyed with the ſcandal and offence of others, it muſt be ſo done that none be taught to rebel, or evacuate the law upon pretences and little regards, nor that our duty and religion be evil ſpoken of, nor that the Superiour be made jealous and ſuſpicious. When our Bleſſed Saviour had proved himſelf free from tribute, and that in conſcience he was not bound to pay it, yet that he might not give offence, he ſubmitted to the impoſition. And this caution is given by all the Doctors, who follow *Bartholus* in it, *capite* 1. *de conſtitutionibus.*

11. 2. The inconvenience of the republick muſt not be trifling and contemptible, but ſo great as muſt in the judgement of good and prudent men be a ſufficient cauſe of annulling the law, ſo great as muſt reaſonably outweigh the evil of material diſobedience. And therefore in the injuſtice of unequal diſtributions, and impoſition of taxes, we are not to complain for every little preſſure, nor yet to weigh the proportions in gold-ſcales; for it is a greater duty of charity that the Subject quietly bear a little load for peace-ſake and example and compliance, then it can be of duty in the Prince to make ſuch exact, curious and Mathematical proportions.

12. 3. The inconvenience and injuſtice muſt be certain, notorious, and relied upon, before it can be made uſe of to the breach of a law. For it is no warranty to diſobey, that I fancy the law to be unjuſt: & therefore in this caſe the beſt ſecurity we can have is, that either it be ſo declared by the voice of all men, or the more ſober accents of the wiſe men, or be evident in it ſelf according to the ſtricteſt meaſures; for where there is a doubtful caſe, the preſumption always is for obedience, not againſt it: for although uſually in doubts, the preſumption is for liberty, yet that is either between private perſons, or when the Superiour makes a doubt concerning his own laws, then he is to judge for liberty and eaſe; but in our own caſes, and in diſpute with a law, the preſumption is on behalf of the law, becauſe ordinarily that is the greateſt intereſt, and the greateſt reaſon.

13. 4. When there is a favourable caſe for breaking a law, if we have time and opportunity we muſt ask leave of the Superiour. Becauſe as that does honour to the Superiour, and gives value to the law; ſo it is the greateſt courſe of ſecurity, becauſe it makes him Judge who onely can complain. But to this we are not oblig'd if the caſe be evident, or if the danger of evil be imminent and ſudden, and there be no time or opportunity to require it: In theſe caſes a leave is to be preſumed, or elſe it need not, for the law does not oblige.

14. 5. This is to be practis'd onely when the law is againſt the publick good. For if it be ſtill conſiſtent with the publick intereſt, though it be againſt the good of a particular perſon, the law hath left a power of diſpenſation in the appointed Miniſters; but a private perſon may not ſo eaſily break the law, at leaſt he is tied to other conditions, and more caution,

and

and a ſeverer conduct; of which I am to give account in the Chapter of the Diminution of Laws. But for the preſent, the difference is onely in ſpeculation: for notwithſtanding the perſonal inconvenience, the law does ſtill bind the conſcience of the Subjects in general; but if it be againſt the publick emolument, then the law ceaſes, and it does not oblige. In the firſt caſe the particular is to be relieved by a way of his own; of which I am afterwards to ſpeak: but in this caſe the conſcience is at liberty. Thus when the Church makes a law that upon a certain day the people ſhall meet in publick, and ſpend their day in faſting and prayer; it is a good law, and may be for the publick good, though *Petronia* and *Abbatilla* be with child and cannot faſt: All are bound, but from theſe the yoke may be lifted up for the preſent. But if a Church make a law that all the Clergy ſhall loſe their livings and their office if they marry; here there is a miſchief to the publick, to a whole order of men; and the law cannot doe ſo much good accidentally, as it directly does miſchief. And the confeſſion of *Suarez* upon another occaſion, but in this very inſtance, is remarkable, *Cuſtodiam virginitatis eſſe opus ſupererogationis, quod neceſſariam non habet conjunctionem cum fine publici commodi; & ergo non poſſe præcipi lege humana, That virginity ſhould be kept is a work of ſupererogation, that hath no neceſſary conjunction with the end of any publick good; and therefore cannot be enjoyn'd by a humane law.* Either then the law of the Church of *Rome* forbidding the Clergy to marry, does not tie them to be Virgins, but gives them leave to fornicate; or if it does tie them to a Virgin ſtate, ſhe makes a law which is not for the publick good, and therefore in which ſhe hath no competent authority. This therefore is an unjuſt law, and does not oblige the conſcience. Δεδιδάγμεθα ἀρχαῖς καὶ ἐξουσίαις ὑπὸ Θεοῦ πεταγμέναις τιμὴν τὴν ὀφειλομένην ἀπονέμειν, ſaid *Polycarpus*; *We are taught to give to Princes and the powers ſet over us by God ſuch honour and obedience as may not hurt us.*

Lib. 3. de legib. cap. 30. n. 11.

RULE IV.

A law that is founded upon a falſe preſumption, does not oblige the Conſcience.

1. THE caſe is this; *Franciſco Biretti* a Venetian Gentleman, full of *amours*, & us'd to vain and wanton addreſſes, courts *Julia* a Senators daughter, but with ſecret intent to abuſe her and ſo to leave her. *Marco Medici* the Father of *Julia* by threats and harſh uſages forces his daughter *Julia* to conſent to a contract with *Franciſco*: who perceiving himſelf ſurpriſed, and that the matter was paſs'd further then he intended it, reſolv'd to make the beſt of it, to make a contract, to lie with her, and ſo to leave her. He does ſo, ſurpriſes her in the careleſs hours of the day, and the nakedneſs of her ſoul, and with flatteries mingled with the affrighting name of her harſh Father, acts his intention, and then purſues it till he was weary of her, and then forſakes her. She complains, and deſires remedy. The law declares their congreſs to be a marriage. But in the mean time *Franciſco* paſs'd into *Sicily*, and there married *Antonia Peronetta* a Sicilian Lady; her he lov'd, intended to make her his wife, and did ſo. Now the law preſumes that after contract, their congreſs did declare a marriage, *cap. Is qui fidem*, and *cap. Tua nos, de ſponſal.* for it ſuppoſes and preſumes a con-

 ſent,

ſent, and yet withal ſays if there was no conſent, it was no marriage. Here *Franciſco* is condemn'd by the preſumption, and reliev'd in conſcience. For if he did not lie with her *affectu maritali*, but onely intended to abuſe her, he was indeed extremely impious and unjuſt; but he made no marriage, for without mutual conſent marriages are not made. Yet becauſe of this, the law could no way judge but by outward ſignifications, and *ut plurimùm*, for the moſt part it is ſo that contract and congreſs doe effect as well as ſignify a marriage, the law did well to declare in the behalf of *Julia*: but *Franciſco*, who knew that which the law could not know, was bound to make amends to *Julia* as well as he could, but to purſue the marriage of *Anthonia* and dwell with her. For the preſumption upon which this law was founded was falſe; the congreſs did not prove a marriage, for it was never intended: the preſumption was probable, but fail'd in this inſtance, and therefore in this caſe did not oblige the conſcience. Conſcience is to be guided by preſumptions when it hath no better guide; but when it hath a certain truth to guide it, it is better then the beſt preſumption or probability. * Beſides this, when a law is made upon a ſuppoſition, and relies upon that alone, in caſe that ſhould fail, it is to be preſum'd that the Law-giver does not intend to bind. When the men of *Ægina* were at warre with the Athenians, they made it death by their law for any Athenian to be ſeen in their Country. But when *Plato* was made a ſlave and was carried thither by a ſtorm, one of the Citizens ſav'd his life by an artifice, and did it according to the intention of the law. For the law being founded upon a preſumption that if an Athenian came thither, it was for evil to their Town, they could not ſuſpect that *Plato* had ſuch an evil intention, when they knew his caſe and his ſad ſtory; and therefore ought to judge him quit from the burden of that law. *Dom. Joſeph* of *Carreras* a Spaniard walking one night in *Sivil*, was taken by the *Alcalde*, and found to have arms about him, againſt the Law; but carrying of him to priſon they found at the end of that ſtreet a man newly murdered: the law preſum'd him to be the murderer, as it does aptly ſuſpect ſuch perſons who at unſeaſonable times walk arm'd: he was accus'd, but finding friends was acquitted for his life, but ſentenc'd to maintain the widow and children of the dead man. He knew himſelf innocent, and therefore was not bound in conſcience to maintain her, becauſe the law relying upon a falſe preſumption, was a dead letter, and could not bind.

2. But that there be no error in the practice of this, we muſt diſtinguiſh of preſumptions. One ſort is in matter of fact, the other is upon preſuppoſition of dangers uſually ariſing: *that* is of juſtice, *this* of caution. The examples which I have already brought are all meer and unmixt preſumptions of fact; in which caſes the rule does hold without exception. But in preſumptions of caution it is otherwiſe. The law does irritate and evacuate the contracts of *minors*, becauſe they being weak and indiſcreet, it is preſum'd that they doe it fooliſhly whatever they doe; and it is fit that the laws ſhould be their defenſatives againſt the evils of their ignorance. But now ſome *minors* under ſixteen years of age are of a ripe wit, and competent judgement, and have craft enough to make a bargain, to conſider what they promiſe, and to beware of the artifices of evil men. But yet although the preſumption of the law fails as to their particulars, yet their parents may annul their promiſes, their vows, and their profeſſions, though the preſumption of the law in their caſe doe fail. The reaſon of the

the difference is this: In preſumptions of fact, if the truth of the fact fails, the whole foundation of the law does fail; for the foundation is indiviſible, and the law had no other ſupport; if any thing of it fails, it all fails. But in preſumptions of caution, or of preſuppoſition of danger which does uſually happen, it is wholly otherwiſe; for though it does fail in ſome inſtances, yet it is true in moſt, and that is ſufficient to ſupport a law, which looks after that which is moſt common, not after rare emergencies. And therefore the law in this caſe does not in proper ſpeaking rely upon a preſumption, but a certain judgement; for it is certainly true that it is ſo moſt commonly; and it is preſum'd ſo of every particular: at leaſt the law knows not how to diſtinguiſh them, and therefore is a juſt and a wiſe law, conducing to the publick benefit, and conſequently is a good meaſure to the conſcience.

3. Onely this caution is to be inſerted, That if a *minor* make a contract, as if a young man under 16, or a maiden under 14 make a contract of marriage, although this is not valid in law till their years of conſent be completed; yet if they have a mature judgement otherwiſe then the law did preſume them to have, they are tied in conſcience to verify this contract, if all thoſe conditions were obſerved which could make the act valid in the law of nature, becauſe no civil law can evacuate a natural; and where they are naturally able, they are by their own act under that law naturally oblig'd: but this, although it be an eſſential conſideration as to conſcience, yet it is wholly extrinſecal to this Rule.

4. But there is one diſtinction more of uſe to the explication of this Rule: Laws founded upon preſumption are either laws *of favour* or *laws of duty*. Thoſe that are made *in favour* may be made uſe of onely when that ſuppoſition upon which it is founded is really true, but muſt not be us'd to the prejudice of any, whether it be true or falſe. And of this nature, or reducible to it, is the caſe that *Cicero de Oratore* ſpeaks of. A Roman Citizen ſuppoſing his onely ſon to be dead, declares a kinſman to be his heir. The ſon afterwards appears; and by a true preſumption that if his Father had ſuppos'd him living, he would not have diſinherited him, is reliev'd againſt a falſe preſumption which ſuppos'd him dead. And it hath left a ſtain upon the honour of *Davids* juſtice and friendſhip with *Jonathan*, that when he had liſtned to the falſe information of *Ziba* againſt his friends ſon *Mephiboſheth*, and gave the land to the informer; he yet upon a right notice of the cauſe reſtor'd but half. For this cauſe, ſay the Doctors of the Jews, God divided his Kingdome, and gave the bigger half from his Grandchild *Rehoboam* to his ſervant. But if the laws be matter *of duty*, and enjoyn ſomething that is good or uſeful to the publick, whether the preſumption be right or wrong, they doe oblige: and the reaſon is, becauſe the preſumption, whether it was *in fact* or *in caution*, yet it was not the whole foundation of the law; or if it was alone built upon it at firſt, yet it is ſupported by other arguments ſtrong enough to affirm the law. If a law were made in *England*, that whoever comes not to Divine Service in publick Churches ſhould be puniſhed by a mulct of 20 li. a moneth, the fine of Recuſancy, upon a preſumption that he that is abſent is ſo indeed, this law were as much incumbent upon them that are not Recuſants: for although the law was at firſt made upon that preſumption, yet becauſe otherwiſe it commands a very good act, which alone and without the preſumption were a ſufficient in-

ducement to the law, the Conſcience of thoſe who are, and thoſe who are not in the firſt preſumption are equally oblig'd.

Rule V.

Humane laws doe bind the Conſcience to or from an act in ſecret, as well as in publick.

1. SOme things are ſecret or private in their own nature, ſuch as are onely the prerogative of God to judge of; as the word of the mind, the thoughts of the heart, the deſires and repudiations of the affections, the inclinations and tendencies to an object, love and hatred, the pleaſures or diſpleaſures of the fancy, acts of judgment and underſtanding. Theſe God onely knowes, and he onely puniſhes. * Others are ſecret, but yet they are ſuch onely by accident, and for want of proof: and theſe alſo are more or leſs; for ſome are ſeen by one witneſs, and ſome by more; and they that are ſeen, either are brought to judgment, or not. Now according to the parts of theſe diſtinctions, this Rule is in ſeveral manners to be verified.

2. 1. Thoſe actions which were done in ſecret, but under the obſervation of a few, when they are brought to judgement change their nature, and become publick, and therefore are equally under the power of the Law, as if they were done in the Market. For in the Law, *that* is called *Notorious* which is either declar'd in judgment, or prov'd by witneſſes, or evident by the intuition of the fact. And that actions, in this ſenſe at firſt *ſecret*, are ſubjicible to laws, is clear by the very examination of witneſſes and the whole proceſs of law. For the Judge takes notice of no other notoreity: if a Judge ſees a thing done, he cannot puniſh it; he muſt witneſs it, and another puniſh it. All that is notorious to the Judge muſt firſt be ſecret, and then publick; that is made manifeſt or notorious by witneſſes and ſentences of Judges.

3. 2. Some actions are ſecret, becauſe they can be proved onely by one witneſs. Now it is true that in ſome caſes one witneſs is ſufficient, as in the caſe of treaſon; or in caſe of confeſſion, for his own witneſs againſt himſelf is as good as ten thouſand: when it is ſo, it is *manifeſtum* as before, and therefore the ſame thing is to be affirmed of it. But if it be ſecret, ſo that it cannot be competently proved, it is true that the law does not puniſh it, but it fain would; and therefore declares that the private action is a diſobedience and tranſgreſſion.

4. 3. If the action be done wholly in ſecret, then indeed the criminal Judge takes no notice of it any more then a man abiding in the city does of his country houſe on fire before he knows of it; but as one is an unknown calamity to the man, ſo the other is an unknown tranſgreſſion of the law. For that the thing is known or unknown it alters the caſe as to the puniſhment, yet nothing at all as to the offence, the ſcandal onely excepted and the example. Now that the law does intend to forbid ſuch actions, it appears by the acts of ſcrutiny, and the proceedings againſt ſuch as come accidentally

cidentally to be diſcover'd. If a ſuſpicion doe ariſe or any probability, any fame or rumor, the law begins her proceſs, ſomewhere by torture, ſomewhere by examination upon oath, and ſometimes gives ſentence upon conjectures. Now if to this it be replied, that this is the beginning of publication, and the law proceeds onely in proportion to its being publick; I anſwer, that it is true, ſhe can proceed no otherwiſe: and therefore if the queſtion here had been whether ſecret actions were puniſhable by humane laws, I ſhould have anſwer'd otherwiſe, and ſo the lawyers diſpute it: but here the inquiry being whether *the Conſcience* be oblig'd, I am to ſay that the publication of it does not make it to be a ſin; this reveals the action, & the law declares or makes it to be a ſin; for a man is not hanged for theft unleſs he be diſcover'd, but if he be, then it is for his theft he is puniſhed, not for his diſcovery. The conſequent of which is this; that if the action be againſt the law, be it never ſo ſecret, it is a ſin: and here is the advantage of the wiſdome and Oeconomy of God in the verification of humane laws; he confirms the laws of men, and he binds in heaven what they bind on earth, and he alſo knows in earth what is done in the moſt ſecret corner, and judges accordingly.

5. 4. But as for thoſe things which are ſecret in their own nature, ſuch which are not onely not known, but not cognoſcible by humane laws and judicatories, the caſe is much more difficult, it being generally taught by Divines that no humane laws have power to preſcribe internal acts; and conſequently that whatever we think or wiſh, ſo we doe the thing that is commanded, the law of man is ſatiſfied.

Queſtion.

Whether humane laws can command or forbid inward acts.

6. But having as well as I could conſider'd the ſecret of this thing, I reſt finally upon this account. It being certain and confeſſed that the laws of Man have power to conſtitute actions of themſelves indifferent, into the order of vertue and vice, making that to be inceſt which before the law was not, and that to be theft which in other countries is lawful, and ſo in other inſtances; if the law does change the action onely ſo as to make it meerly to be an inſtance of obedience or diſobedience, then the law hath no power over internal actions: for man is not the Lord of Conſciences and minds, and we are not tied to obey any man commanding an internal act; his judicatory here is not competent, his authority is not ſufficient. For it ſerves no end of the publick, and it hath no judicatory, no cogniſance, and no intereſt: and it were as fooliſh as for a King to ſit upon the ſtrand and command the waters not to flow to his feet. * But if the law of man have chang'd an action not onely to an inſtance of obedience or diſobedience, but plac'd it alſo in the order of ſome other vertue or vice, as by changing it to inceſt, or adultery, or chaſtity, or temperance reſpectively, then the law of man hath power over the Conſcience even in the moſt ſecret act; not directly, and by the energy of its own power, but indirectly, collaterally, and by accident, by reaſon of the laws of God. The reaſon is plain: becauſe it is not lawful to commit adultery, or murder, or inceſt in our heart; the law therefore that conſtitutes this action and makes

it to be murder, does consequently oblige the Conscience not so much as to desire it. *Voluntas facti origo est, quæ ne tunc quidem liberatur quum aliqua difficultas perpetrationem intercepit. Ipsa enim sibi imputatur, nec excusari* De Pœnit. *poterit per illam perficiendi infelicitatem operata quod suum fuerat:* so *Tertullian: The will is the original of action; and is not free'd when she is hindred from doing what she would. Her own act is imputed to her; for though no event succeeded, yet she did all her part.* Thus in the Canon law *Clementin. 1. § verum de hæreticis*, the inquisitor of heretical pravity is excommunicate if either out of hatred or hope of gain he condemn the innocent, or for love and favour absolve the criminal: upon which the Gloss observes that the Superior can punish the sin of the heart, though it never proceed to action; and to this Gloss *Panormitan* and *Adrianus* doe consent. Now if it be objected that here is an action external complicated with the internal, and that the law proceeds against that, not against this; I answer, that it is certain the law cannot proceed to sentence against the internal, unless it be some way or in some degree publick: but that which I affirm is, that the law forbids the internal, or commands it, and that, in case the action be plac'd in the rank of vertue or vice distinct from the meer obedience or disobedience, and this is a pregnant instance of it; for the condemning the innocent is therefore the more forbidden and the more condemned because it is presum'd to proceed from hatred. And therefore *Cato* argued well in behalf of the *Rhodians*, against whom it was mov'd in the Senate that a warre should be made, because they had some little light conjectures that they were not well affected to them; and because some of the *Rhodians* had mov'd that they might help *Perseus* the King of *Macedonia*, in case peace could not be obtained for him: *Cato* made an oration in their behalf, affirming it to be unreasonable to punish them because they had a mind once to have made a warre. But this was therefore well said of *Cato*, because there was no proof that the *Rhodians* did intend it, and secretly or openly decree it. If they had intended it, it was penal, and when the intention had been prov'd, it might have been more reasonable to proceed to punish their breach of friendship. And this the *Rhodians* themselves confessed, that the *Romans* warr'd justly with *Perseus* for intending a warre against them; but he so intended it, that he did something towards it; but no City, no nation would destroy them who did nothing towards the evil which they secretly intended. *Quis hoc statuit unquam, aut cui concedi sine summo omnium periculo potest, ut eum jure possit occidere à quo metuisse se dicat ne ipse posterius occideretur?* said *Cicero*; He indulges too much to his fear, and destroies the publick, that will kill any man whom he is pleas'd to fear, or say that he would first kill him. And the reason of that is, because there can be no sufficient proof of the secret thought, without it break forth at least into words and decrees and preparations. But *Injuriam facit, qui facturus est*, said *Seneca*. If it appears he was about to doe a mischief, he is guilty; his secret was criminal: and that is it which is punished as often as it can.

7. And this is more evident in the civil Law, *l. si quis non dicam rapere, C. de Episcopis & Clericis.* Where the very thought of ravishing a Virgin is punished. It is true, this thought was declared by the attempt or addresse to it: but because it was not consummate, it is evident that humane Laws bind to more then to or from the external action. The law that punishes the criminal before he hath acted the evil, punishes the internal principally:

cipally: for in the addreſs & firſt preparations nothing is done but the diſcovery of the thought; but when the thought is ſo diſcovered, & the action is not done, if the man be puniſhed, it is not for the action, but for the thought. And to this purpoſe is that of *Cicero* in his Oration *pro T. Annio Milone*; *Niſi fortè quia perfecta res non eſt, non fuit punienda: perinde quaſi exitus rerum, non hominum conſilia, legibus vindicentur. Minus dolendum fuit, re non perfecta, ſed puniendum certè nihilo minus. Not to puniſh the fault becauſe the miſchief was not done is as much as to ſay, that the laws are not avengers of evil purpoſes, but of evil events onely. Indeed if the miſchief be not done, we grieve the leſs; but if it was but intended, we puniſh it never the leſs.* And to this *Seneca* in his controverſies gives teſtimony, *Scelera quoque, quamvis citra exitum ſubſederunt, puniuntur.* The ſame with that of *Periander*, μὴ μόνον τὰς ἁμαρτάνοντας, ἀλλὰ καὶ τὰς μέλλοντας κόλαζε, *not onely thoſe that doe, but thoſe that would ſin are to be puniſhed.* And to this ſenſe all thoſe laws which puniſh the affection, though the effect follows not, are to be underſtood, as *Cap. pro humani*, §. *Sacri, de homicidio l. 6. & l. quiſquis, C. ad legem Juliam majeſtatis*; *& cap. 1. de ſchiſmaticis*, §. *omnem, l. 6. & l. Fugitivus, ff. de verborum ſignif. l. Divus, ff. ad leg. Cornel. de Sicariis.*

8. But this is alſo further manifeſt in the differences of *chance-medly*, *manſlaughter*, and *wilful murder*; where the action being wholly differenc'd by the thought of the heart, proves plainly that the thoughts alſo are puniſh'd by humane Laws ever when they are manifeſt. And if the Divines and Lawyers would diſtinguiſh in this queſtion the puniſhment from the crime, the Court external from the Court of Conſcience, they would not erre in this article. For although a mans thoughts without ſome external action are not puniſhed, becauſe they are not known; yet they could not be puniſhed when they are known, if they were not puniſhable and criminal in themſelves even againſt the laws of man. And therefore when *Ulpian* had ſaid, *Cogitationis pœnam nemo patitur: Accurſius* addes, *Si ſtatum in finibus cogitationis eſt.* No man can be puniſhed for his thought; that is, if it proceeds no further; for then it is known to none but God. L. 18. ff. de pœnis. l. fugitivus. ff. de verbor. ſignific.

9. Upon this account we find ſometimes in Laws, commands expreſly enjoyning the internal action. Thus when the Council of *Lateran* had complained of ſome Clerks and Prelates that either wholly omitted their office, or ſaid it negligently, it addes, *Hæc & ſimilia ſub pœna ſuſpenſionis penitus inhibemus, diſtrictè præcipientes in virtute obedientiæ ut Divinum officium nocturnum pariter & diurnum, quantum eis dederit Deus, ſtudioſè celebrent pariter & devotè: viz.* that they *ſay their office diligently and devoutly*; which becauſe it is an act of the heart as well as of the outward man, it gives a clear evidence in this inquiry. But above all is that *Novel* of *Juſtinian*, which the late Greek Books have brought to light, it never having been noted by the Latine interpreters, in which the Emperour commanded that inſolvent debtors who by misfortune, not by their crimes, were made poor, if they ſwore their inſufficiency, were to be freed from all further trouble; and the Creditors that refus'd to obey the edict ſhould pay ten pound of gold; and διὰ μόνην ὀργὴν θυμοῦσιν, for their meer thought of doing otherwiſe ſhould be put to death. I end this with the ſaying of the Jewiſh Doctors, *Quicquid ſapientes vetant palàm fieri, id etiam in penetralibus vetitum eſt*, Whatever the wiſe men forbid to be done in pub- Novel. 135.

lick, the ſame muſt be underſtood to be forbidden in your cloſet. It was the ſaying of *Rabbi Bachai.*

Rule VI.

Humaine Laws, before ſufficient promulgation, doe not oblige the Conſcience.

1. AS the faults of Subjects are not cognoſcible without publication; ſo neither are the wills of Princes. *Leges ſacratiſſimæ quæ conſtringunt hominum vitas intelligi ab hominibus debent,* ſays the Law, *l. leges, C. de legib. & conſtit.* But in this there is no difficulty: all that is made is in the aſſignation of the ſufficiency of the promulgation. A Spaniſh Lawyer, *Selva,* and he alone, ſo farre as I have heard or read, affirms the very ſolemn edition of it and declaration in the Court or Council to be ſufficient. But as he ſpeaks it wholly without reaſon, ſo he is to be rejected without farther trouble. Others require one proclamation in one or more places, according to the greatneſs of the Province or Juriſdiction; but it can never be agreed poſitively how much is enough. Therefore ſo farre as our conſciences can be concerned in it, theſe following propoſitions are certain, and they are ſufficient.

Vide etiam Authent. ut factæ novæ conſtit.

De benefic. q. 22. n. 14.

2. 1. It is not neceſſary that laws in their promulgation be ſo divulged, as that the notice of them reach every ſingle ſubject. Not onely becauſe in moſt laws all perſons are not concerned, but alſo becauſe it is morally impoſſible; I mean in a great Province, where the laws are commonly of greateſt concern, and the promulgation more to be regarded and more diligently endeavoured. For laws of men are not like the Sun, ſearching into all corners; but as the law it ſelf is ſuch as regards that thing which happens moſt commonly, ſo the promulgation is of a ſymbolical nature, and can arrive but to moſt perſons.

3. 2. In all Princely and ſweet Governments there muſt be ſuch a publication of laws as muſt be fit to miniſter to the publick neceſſity and the publick duty, that the laws be no ſnares, but piouſly intended, prudently conducted, ſufficiently communicated, and reaſonably exacted with abatement of all thoſe deficiencies which are incident and unavoidable to mankind; ſo that if what be in Council judg'd ſufficient for promulgation, doe not prove ſo in the event of things, and in the Province, the defect be put upon the inſufficient publication, not upon the account of diſobedience.

4. 3. Be the publication legally ſufficient, or not ſufficient, it is certain that the conſcience is not tied by the law, till it be known. I doe not ſay but that the prevarication may be juſtly puniſh'd, becauſe the law may be publiſhed as well as is morally poſſible, or prudently and civilly is requir'd, and yet ſome may inculpably be ignorant of it. But be it ſo or otherwiſe, it is impoſſible that they who know not of it can obey; and if they cannot, they cannot be oblig'd: for that is no law, but madneſs, which obliges a man to that which is impoſſible.

4. The

5. 4. The care and ſufficiency of publication is wholly incumbent upon the Law-giver, not at all upon the Subject; that is, the Subject is not bound to ſeek after the law, but onely to ſee that he doe not turn his ear from it, or ſtudiouſly decline it, or endeavour to be ignorant. For a law, though it be for good to the publick, yet to the particular being a reſtraint upon our natural or political liberty reſpectively, no man is bound to ſeek his own fetters, or put the burden upon his own neck, but to wear it well when it is impoſed: but to refuſe to hear is the firſt act of diſobedience; but to hear is the firſt inſtance of obeying; therefore till he hath heard, he is oblig'd to nothing. This hath no limitation or exception but this. If the Subject hath heard there is a law, he is bound to inquire after it, for then it is ſufficiently publiſh'd: the Law-giver hath done his duty; But before he hath heard, it is to him as if it were not; and that which is not cannot be numbred, cannot be accounted for. The firſt is ſufficient to oblige him, he is bound becauſe he knows, the will of the Law-giver hath bound him; but then he muſt inquire for his own ſake, for otherwiſe he cannot perform his obligation.

6. 5. Although as to conſcience the former meaſures are certain, yet the Legiſlator hath power to declare when the promulgation is ſufficient for the nullifying of all contracts intervening, or evacuating priviledges, and changing all exteriour events of law; becauſe the being of all theſe depends upon the will of the Prince and of his law. Onely when this is reduc'd to practice, in the matter of contracts, if they were valid by the law of nature, he that did contract is oblig'd to ſtand to it, if the other requires it; but if it be his own advantage, he is bound to quit it, if the other recedes and makes uſe of his advantage. For the law can tie him to ſuffer inconvenience for the publick intereſt, but not to doe any evil. Thus if *Titius* contract with *Mævius* to carry twenty Tun of wheat from *Sicily* to *Rome*, and before the contract a prohibition of ſuch contracts was legally publiſhed, and yet he heard not of it; he is bound to obey it: but if *Mævius*, who is like to be the gainer, ſtand upon his right of juſtice and natural conſent, *Titius* muſt make him amends, but he muſt not tranſport the corn. But this is in caſe they be not both Subjects of the ſame Prince. And the reaſon of this is plain, becauſe the ſtranger hath a natural right by juſtice and ſtipulation, but the Subject hath a law upon him; therefore the other is not tied to quit that, but the Subject muſt obey this: not to doe an injury, for no law can oblige him to that; but to ſuffer one that is tolerable and is outweighed by the publick advantage. But if they be both the Subjects of the ſame law, the law that forbids one to make the contract, does alſo by implication forbid the other to exact that which is illegal. So that although the law cannot diſoblige *Titius* from verifying a contract that is valid in the law of nature; yet *Mævius* can remit his right, and the law can tie him to that.

7. This holds in all things where the parties can give conſent to the invalidating of the contract. But ſometimes they cannot, and then the rule of conſcience is, *ſtandum eſt juri naturali*, whatever was ratified by nature and religion muſt remain for ever. The Council of *Trent* makes a law that all clandeſtine marriages ſhall be null: ſhe publiſhes the law, and declares it from a certain time to be valid. A poor Vine-dreſſer in the *Valtoline* hears nothing of it, but gets the daughter of his Maſter the Farmer with child after

after contract *per verba de præſenti.* The law is urg'd upon him; the parties are both threatned, and are in that fright willing to recede. But they were told by a prudent Confeſſor, that they could not conſent to any ſuch ſeparation: and he told them truly. For in marriage there is a neceſſitude contracted by a law of nature, and not onely a mutual right tranſmitted to each other, but there is a band of Religion, a Sacramental tie, or relation that God hath joyn'd, and no man can put aſunder. But until the contract is paſs'd ſo farre as that it is become a marriage in the law and ſtate of nature, the prohibition ought to prevail upon them.

8. Laſtly, in priviledges there is no difficulty, becauſe the law is not bound to give any at all; and therefore may reſtrain them at any time, without giving a reaſon. Thus if a law were made that all illegitimate children that were born after the death of the Emperour *Maximilian* ſhould be uncapable of a Prebend or benefice in a Church; he that heard not of the law might juſtly be put out after ſolemne inveſtiture. For *no man is injured, becauſe he hath not a favour done him.*

Rule VII.

That a law ſhould oblige the Conſcience, does not depend upon the acceptation of the Law by the people.

1. This Rule hath ſuffered great prejudice, not onely by the contrary opinion of the Civilians and Canoniſts, who in very great numbers oppoſe it, but by all perſons almoſt who live under Governments Democratical, or doe not well conſider the powers and conſequents of government. But the caſe in ſhort is this;

2. All Governments in the world did either begin right or wrong. If right, it was by Divine appointment, or by the multiplication of the poſterity of a Patriarch, and the ἀυξησις increaſe of Paternal Government. This is the natural way, and this is founded upon natural reaſon, and a Divine Commandement. This hath in it no evil, and no queſtion, and it is the juſt beginning of Monarchy, it produces no other Government.

3. But if the Government comes not this way, it comes in wrong. Either from tumults, by neceſſity and evil experience being forc'd to permit and eſtabliſh an order and government; or directly by warre and violence; or elſe in the deſtitution of a Governour when all are left to themſelves, and none hath power over them, they may doe what they liſt, and order things as they pleaſe, and part with as much power as they think fit, and keep ſome to themſelves, and confound all politick principles, and divide power, as two earneſt diſputants doe divide the truth when they have torn her in pieces, each part running away with that ſhare that comes next his hand.

4. Now from theſe beginnings of Governments ſeveral Republicks and Principalities have been eſtabliſhed; and when it hapned that any famous Government

government entred the wrong way, they became exemplary to others in their polity and in their principles, and made their actions become rules to others. Thus it was that the Roman people, keeping the legiſlative power in their own hands, made Kings and Conſuls and officers at their pleaſure, but their conſent was alwaies demanded when a law was to be made, as is affirmed by *Aſconius Pedianus in orationem pro C. Cornelio*, and by *Budæus* and *Zaſius in l. 2. ff. de origine juris*. Theſe laws were made in a convocation of the people in thirty Courts, and were called *Curiatæ*, as is affirm'd by *Suetonius in Auguſto*, and in *Cicero* in his epiſtles to *Lentulus*: they were alſo called *Populares* by *Cicero* in his orations. Now this people ſo largely reigning over the world, and being exemplary by their wiſdome and their laws, did eaſily tranſmit this licence unto the people of moſt Nations, who needed but little teaching to bridle the power of their Princes, to which they were but too much tempted by that *libido regnandi*, that luſt of empire which poſſeſſes the greateſt part of the world; and by their own ſtrength, which they often made their Kings to feel, and would not lend to them in their needs but upon hard conditions. * Adde to all this, that many princes have been gentle and kind, and many wiſe, and would not put a bridle upon ſuch an untam'd beaſt without their own conſent; not onely that they might obey more willingly, but leſt they ſhould not obey at all, as knowing it to be better that they ſhould be rul'd as they pleaſe, then not at all.

—— Libertatis ſervaveris umbram
Si quicquid jubeare velis——

This phantaſtick liberty the people would ſeldome be without; and they muſt have what they were reſolv'd on; for when they pleaſe, they are all Kings.

5. Upon the account of theſe and ſome other cauſes it is come to paſs that in many places laws have their binding power onely by the conſent of the people; in their tribes and Courts, or by their repreſentatives, or by their manners and cuſtomes: and from hence come theſe ſayings of ſome very wiſe men; *Lex nullam vim obligandi habet niſi ex more*; ſo *Ariſtotle*: and, *Leges promulgatione conſtitui, firmari autem uſu*, ſaies *Gratian*: and the civil law moſt expreſsly, *Ipſæ leges nullâ aliâ cauſâ nos tenent quam quod judicio populi receptæ ſunt*, The reception and approbation of the people is the onely firmament and Sanction of the law. Now that the civil law ſaies it, it was *ex more Romanorum*; among the old *Romans* it alwaies was ſo: and *Ariſtotle* ſpeaks at the rate of him who had been bred under the popular government of the Greeks, and therefore it is no wonder that any of them ſpeaks ſo: but as for the words of *Gratian*, *Laurentius* and the *Arch-Deacon* expound them to mean that the laws receive from the uſe of the people *firmitatem ſtabilitatis*, *non authoritatis*; that is, *de facto* they are made more firm and laſting by the conſent and manners of the people, but not *de jure* more obliging; according to that of *Tertullian*, *Neque civis fideliter legi obſequitur ignorans quale ſit quod ulciſcitur lex. Nulla lex ſibi ſoli conſcientiam juſtitiæ ſuæ debet, ſed eis à quibus obſequium expectat: caterum ſuſpecta lex eſt quæ probari ſe non vult; improba autem ſi non probata dominetur.* A Citizen does not faithfully obey that law (meaning of going to warre) who knows not what that is which is to be puniſh'd. For that a law is juſt is owing in part to him that is to obey it. That law is to be ſuſpected

Lib. 2. Polit. c. 6. § leges diſt. 4. l. de quibus ff. de legibus.

Apolog. c. 4.

ſpected which will not indure a trial; but if being tried it be rejected, it cannot prevail without injuſtice.

6. Having now by this narrative laid open the ſecret and foundation of this opinion, and prevented the objections that can be made, the Rule is certain and eaſy. The conſent of the people gives no authority to the law; & therefore is no way neceſſary to the Sanction and conſtitution, ſave onely to prevent violence, rebellion and diſobedience. But becauſe I am not writing rules of policy, but rules of conſciẽce, I am to ſay, that if the legiſlative power be in the Prince, that is, if he be ſupreme, he is to decree the law; but whereever the authority be, that authority is derived from God, and is onely leſs then him: and although a horſe ſometime cannot be ruled without ſtroakings and meat and gentle uſages, yet for all that his rider is his Maſter: and he that ſaid, *obey them that have the rule over you, and ſubmit your ſelves to every ordinance of man for the Lords ſake, whether to the King as to the ſupreme, &c.* did not appoint the ſupreme to rule by a precarious power; and if he who hath authority makes a juſt law, either the people are bound to accept the law, or they deſpiſe the authority. And indeed it is a contradiction in the terms, that a law be impos'd, and yet that it be no law of it ſelf; that is, that the effect of the cauſe ſhould be a neceſſary condition in the cauſe it ſelf; and that it's own work is nothing, unleſs what it does work give it force. It muſt be a law before they accept it, and if it be a law they are bound to accept it; and therefore their accepting cannot make it a law.

7. In popular governments the people have their ſuffrages in the legiſlative; but then it is becauſe they govern: but when they have not the legiſlative, he that hath it muſt not ask them leave to uſe it, when God hath given him power. They indeed who ſuppoſe Kings to be truſtees and miniſters of the people have ſome pretence (if they ſuppos'd true) to affirm the acceptation of the people to be neceſſary. But yet if they did ſuppoſe true, it were indeed *a pretence* but no more. For when the King is choſen, and is by the people (that I may uſe the expreſſion of *Tiberius*) *tantâ tamque liberâ poteſtate inſtructus*, inveſted with a Princely power, and the legiſlative; he, by himſelf or by his Senate, according to the conſtitution of the province, is to make the law, and to puniſh them that break it, and not to ask them if they will pleaſe to obey it. *Lex inſtituitur cum promulgatur*, ſaies the *Authentick*: and therefore whoſoever does not obey, whether it be a ſingle perſon or a multitude, they ſin againſt God; it is diſobedience in a ſingle perſon, and rebellion in the multitude. All which is true with the proviſos of the former rules, that the laws be upon all their juſt accounts in all other things obligatory.

8. This Rule does alſo fail in all arbitrary conventions and precarious governments; in ſuch which have no coercitive power but what is by voluntary conceſſion; ſuch which can convene and diſſolve at pleaſure, as Colleges and Fraternities. For as they meet at pleaſure, ſo they muſt be governed as they pleaſe; their power comes not from God, but from man; and their authority is equivocal.

9. Some inſert one caſe here, ſaying that if a law be refus'd by the greater part of the people, then ſingle perſons are excus'd, becauſe it is to be ſuppos'd that the Prince cares not that ſingle perſons obſerve the law, ſince ſo little

little will ſerve no intereſt. But if this were true, yet there is in it ſo much caution to be us'd, ſo many proviſos, and ſo much probability to the contrary, that it were as good that it were not true; for it cannot give reſt or peace to the Conſcience. For 1. whether the Prince doe ſecretly give leave or no, is a preſumption of infinite uncertainty. 2. The contrary may very well be ſuppos'd; for he that is troubled at the rebellion of many will not give leave to one to diſobey. 3. If theſe few ſingle perſons doe ſubmit, they become good examples, and are confeſſors for the reputation of the Kings wiſdome and authority. 4. What is evil in the whole is ſo in every particular; becauſe the people is but an aggregate body of ſingle perſons. 5. *We muſt not follow a multitude to doe evil:* and all rebellion is of that nature, that it is as the ſin of witchcraft; and who would be a witch becauſe all the Country is ſo? 6. He that partakes of other mens ſins ſhall alſo partake of their puniſhment. Upon theſe accounts, I judge it very unſafe for any ſingle perſon to reſiſt a juſt law of a juſt ſuperior, upon hope of eſcaping in the Croud. * But this Rule is onely true when the law is juſt and good for publick profit and uſefulneſs of the people. For if it be an unreaſonable law, it binds not as a law, but as by promiſe and contract; that is, it does not bind by the ſanction of the law, but the acceptation of the people. And ſo the ancient lawyers are to be underſtood; *Lex præcepti tollitur, ſi moribus utentium non recipitur*, The obligation of the law is taken off, unleſs it be receiv'd into the manners of the Subjects. But the inſtance tells in what ſenſe this is true. The *Pope* and Council cannot command continence to a certain ſort of perſons after promotion againſt their wills; *quia continentia eſt res quæ poteſt perſuaderi, imperari autem non*, Becauſe continence is a thing that may be perſwaded, but not commanded. The matter of the law is to be order'd according to the meaſures of the third Rule; but ſuppoſing that, this Rule is certain.

* Rule 3.

Panormit. c. cum olim. de cleric. conjug.

RULE VIII.

Humane laws of indifferent matter doe not oblige the Conſcience of the Subjects out of the dominions of the Superior.

1. EXtra territorium jus dicenti, non paretur, impune, is a famous ſaying in the Canon law, A man may ſafely diſobey the law of his Prelate if he be out of the Dioceſs. And the reaſon is, becauſe beyond his Dioceſs he hath no juriſdiction; and beyond his juriſdiction a Prince hath no power. *Lex eſt jus proprium civitatis*, ſaith the law; The law hath no power beyond it's own city. Thus anciently, in the Province of *Canterbury* the people did not faſt upon S. *Marks* day; but if they were within the Province of *York* they were tied to the common law, or cuſtome of the Church beſides. Thus alſo it is in maritime places, eſpecially in places of publick Trade and Merchandize: if the ſeveral Subjects ſhould keep the ſeveral Laws of their own Princes, it would cauſe great confuſion and diſorder upon the place of Trade; and ſince it is certain that ſtrangers muſt live by the laws of the Country where they ſojourn, it is certain they are not tied to the laws of their own, becauſe they may be contrary.

Cap. 2. de conſtitut. n. 6.

L. omnes populi de juſtitia & jure.

2. 1. But this hath divers limitations. For 1. It does not hold in the ſubſtantial matters of religion, where the religions of the Country differ. It is not lawful for a Subject of *England* to goe to Maſs in a forein Country; not onely upon ſuppoſition that the office is ſuſpicious or to be blam'd by the meaſures of the Divine Law, but if the laws of our Country have upon other prudent and juſt conſiderations forbidden it. The ſons of the Church of *England* profeſſing under the government Epiſcopal may not lawfully communicate in the *Huguenot* Churches with them that believe Epiſcopacy to be Antichriſtian or unlawful, becauſe this does relate to the evil and detriment of thoſe laws and that government and that authority under which we ſtill are tied. But in the ceremonial and ritual part of religion, where the religion is the ſame, we are not tied abroad to our Country cuſtomes. A Subject of the Church of *England* may ſtand at the Holy Communion, or eat it in leavened bread, if he come into Proteſtant Countries that have any ſuch cuſtome: and the reaſon of this is, becauſe the contrary would give ſcandal, to which our own laws neither doe nor can oblige abroad; and if any be offended at our different ceremonies at home, he muſt look to it, we are not concerned in any thing, but to obey our Superiour, and quietly to render a reaſon to our brethren.

3. 2. This Rule does not hold in ſuch laws which are the ſpecification of the Divine laws. Thus if a Subject of *England* ſhould be in *Spain*, and there ſee his Daughter diſhonoured, or his Wife conſent to her ſhame, and take her in Adultery; he may not kill her, though in *Spain* it be lawful for them to doe it. The reaſon is, becauſe ſhe is not a Subject of *Spain*, but hath an habituall relation to *England*, and therefore it is Murder if it be done by an Engliſh Subject. Concerning all his own Subjects, the Prince of the Countrey and the Legiſlative is to give limits to the indefinite lawes of God; and the reaſon is that which S. *Paul* gives, becauſe he who hath *the rule over them* is to *give an account* of their Souls. Every law therefore is to acquit or condemn herown Subjects: and therefore if a Spaniard does diſhonour the bed of an Engliſh Subject in *Spain*, it is lawfull there to kill him; becauſe his own Princes law condemns him, and gives leave to the injur'd perſon to be Executioner. All theſe particulars rely upon the ſame reaſon.

4. 3. This Rule does not hold, when though the Subject be abroad, yet the action does relate to his own Country. Thus it is not lawful abroad to coyn or counterfeit the money of his Country, to rail upon his Prince, to prejudice his Subjects, to violate his honour, to diſgrace his Nation, to betray the ſecrets and diſcover the Counſels of his Prince. Becauſe the evil done out of the territory being an injury to them within, is as if it were done within. When the diſpute was between the Athenians and Thebans about their confines, and the parties ſtood at a little diſtance, diſputing and wrangling about the breadth of an acre of ground, *Timotheus* ſhoots an arrow and kills a young Theban Gentleman. The Thebans demand that *Timotheus* be put to death by the laws of *Athens*, as being their Subject: they refuſe to doe ſo, but deliver *Timotheus* to the Thebans, giving this reaſon, He ſhot the arrow within the Athenian limit, but it did the miſchief within the territory of *Thebes*; and where the evil is done, there and by them let the criminal be puniſh'd. Being abroad is no excuſe

cuſe in this caſe. If a Subject ſhoots an arrow into his own Country, though he bent his bow abroad, at home he ſhall find the ſtring.

5. 4. If the action be ſomething to be done at home, the Subject abroad is bound to obey the ſummons of the law. When *Henry* the ſecond of *England* commanded all Prelates and Curates to reſide upon their Dioceſes and charges, *Thomas Becket* of *Canterbury* was bound in conſcience, though he was in *France*, to repair to his Province at home. The ſumme of all is this, A law does not oblige beyond the proper territory, unleſs it relate to the good or evil of it. For then it is done at home to all real events of nature, and to all intents and purpoſes of law. For if the law be affirmative, commanding ſomething to be done at home, at home this omiſſion is a ſin: *Qui non facit quod facere debet, videtur facere adverſus ea quæ non facit*, ſaith the Law, The omiſſion is a ſin there where the action ought to have been done. But if the Law be negative, *Qui facit quod facere non debet, non videtur facere id quod facere juſſus eſt.* He that does what he is forbidden to doe is anſwerable to him who hath power to command him to doe it. L. Qui non facit ff. de regulis juris.

6. This Rule thus explicated is firm; and is to be extended to exempt or priviledged places, according to that ſaying of the Lawyers, *Locus exemptus habetur pro extraneo*, He that lives in an exempt place, lives abroad.

7. By the proportions of this Rule it is eaſy to anſwer concerning ſtrangers, whether they be bound by the Laws of the Nation where they paſs or traffick. For in all things where they are not oblig'd by their own Prince, they are by the ſtranger, and that upon the ſame account; for if they who are abroad are not ordinarily bound by the Laws of their Country (except in the caſes limited) it is becauſe the juriſdiction and dominion of their Prince goes not beyond his own land; and in ſuch caſes *the place is more then the perſon:* but therefore it muſt goe ſo farre, and be the perſon what he will, yet in the territory he is under the law of that Prince. He is made ſo by that place. It is *Lex terræ*, the Law of the land in which he is: and *in the peace of that he ſhall have peace*, as God ſaid to the Jews concerning the land of their Captivity.

RULE IX.

Obedience to Laws is to be paid according to what is commanded, not according to what is beſt.

1. WHen *Lacon* was fighting proſperouſly, and had prevail'd very farre upon his enemies, it happened that a retreat was ſounded juſt as he was lifting up his hand to ſmite a conſiderable perſon; he turned his blow aſide and went away, giving this reaſon to him that asked him why, *It is better to obey then to kill an enemy.* But when *Craſſus* the Romane General ſent to *Athens* to an Engineer a command to ſend him ſuch a piece of timber towards the making of a battery, he ſent him one which he ſuppos'd was better; but his General cauſed him to be ſcourged for his diligence: and *Torquatus Manlius* being Conſul commanded his ſon not to fight that day with the Enemy, but he eſpying a great advantage fought and Vide A. Gellium lib. 1. cap. 13.

beat him and won a glorious victory, for which he was crown'd with a triumphant lawrel, but for his diſobedience loſt his head. It is not good to be wiſer then the laws; and ſometimes we underſtand not the ſecret reaſon of the Princes command, or the obedience may be better then a good turn, or a better counſel; which is very often ill taken, unleſs it be requir'd. *Corrumpi atque diſſolvi officium omne imperantis ratus ſi quis ad id quod facere juſſus eſt, non obſequio debito, ſed conſilio non deſiderato reſpondeat*, ſaid *Craſſus* in *A. Gellius*.

2. Thus alſo it is in the obſervation of the Divine Commandements: when God hath declared his will, and limited our duty to circumſtances and particulars, he will not be anſwered by doing that which we ſuppoſe is better. We muſt not be running after Sermons, when we ſhould be labouring to provide meat for our family: for beſides that it is direct diſobedience in the caſe now put, there is alſo an error in the whole affair; for that which we think is better then the Commandement, is not better: and this God declared in the caſe of *Saul*, *Obedience is better then ſacrifice*. No work is better then that which God appoints.

3. This is to be underſtood ſo that it is not onely left to our liberty, but it is alſo rewardable, for the Subject to prevent a Commandement, and to excell the meaſures of the Law in the matter of a Commandement, when to doe ſo we know will be accepted, and is to the pleaſure and uſe of the Prince. Thus *Aſtyages* preferr'd *Chryſantas* before *Hyſtaſpes*, becauſe he did not onely obey as *Hyſtaſpes* did, but underſtood the mind of the Prince, and when he knew what would pleaſe him, did it of his own accord. But then this is upon the ſame account, it is obedience, onely it is early and it is forward.

4. This alſo is to be added, that if the choice of the Subject differing from the command of the Prince be very proſperous and of great benefit, the Prince does commonly *ex poſt facto* allow the deed; that is, he does not puniſh it. *P. Craſſus Mutius* and *T. Manlius* did otherwiſe; but they were ſevere and great examples. But when it is not puniſh'd, it is not becauſe it does not deſerve it, but becauſe it is pardon'd: for if it ſhould miſcarry, it would not eſcape vengeance: and therefore though the proſperous event be lov'd, yet it came in at a wrong door, and the diſobedience was criminal. Δεσποτου μὲν ἐστι μόνον ὁ ὑπιτάττειν· δὲλων ὁ πείθεσθαι, *Maſters are to command, but the province of ſervants is to obey*, ſaith S. *Chryſoſtome*.

5. This Rule is to be underſtood according to the intention, not according to the letter of the law; for if the intention of it be that which is better, it is evident that is to be done which is better in the intention, not that which is commanded in the letter. But of this in the Chapter of interpretation of Laws.

CHAP.

CHAP. II.

Of Laws Penal and Tributary.

RULE I.

It is lawful for Christian Magistrates to make penal Laws, not onely pecuniary and of restraint, but of loss of member and life it self.

1. WHatsoever is necessary is just; that is, that must be done which cannot be avoided: and therefore the power of the Magistrate in punishing the transgressors of their laws of peace, and order, and interest, is infinitely just *; for without a coercitive power there can be no government, and without government there can be no communities of men; a herd of wolves is quieter and more at one then so many men, unless they all had one reason in them, or have one power over them. *Ancus Rex primus Carcerem in Romano foro ædificavit, ad terrorem increscentis audaciæ*, says *Livy*. King *Ancus* seeing impiety grow bold, did erect a prison in the publick markets. When iniquity was like to grow great, then that was grown necessary. And it is observ'd that the Macedonians call Death Δαν. from the Hebrew word DAN, which signifies a Judge, as intimating that Judges are appointed to give sentences upon criminals in life and death. And therefore God takes upon himself the title of a King and a Judge, of a Lord and Governour; and gives to *Kings* and Judges the title of *Gods*, and to *Bishops* and Priests the style of *Angels*.

* *Nemo sibi turpe quod alii fuit fructuosum. Patercul. lib. 2. in princ.*

1 Chron. 29. 12. 1 Tim. 6. 15. Psal. 82. 6.

2. But here I will suppose that Magistracy is an ordinance of God, having so many plain Scriptures for it; and it being by S. *Paul* affirmed, that *he beareth not the sword in vain*, and that they who have done *evil ought to fear*; and of himself he professed that if he *had done ought worthy of death he did not refuse to die*; and a caution given by S. *Peter*, that Christians should take care that *they doe not suffer as malefactors*: and it being made a note of hereticks that they are *Traytors*, that they are *murmurers*, that *they despise dominion*, that *they speak evil of dignities*; and that we are commanded to *pray for Kings and all that are in authority*, for this reason, because they are the appointed means that men should *live a peaceable and a godly life*; for piety, and peace, and plenty too depend upon good Governments: and therefore *Apollo Pythius* told the Lacedemonian Embassadors that if they would not call home *Plistonax* their King from banishment and restore him to his right, they should be forc'd to till their ground with a silver Plough; that is, they should have scarcity of corn in their own Cities, and be forc'd to buy their grain to relieve the famine of their Country: for so the event did expound the Oracle; they grew poor and

Rom. 13.

ſtarv'd becauſe they unjuſtly ſuffer'd their King to live in exile. Adde to theſe, that we are often commanded to *obey them that have the rule over us; to be ſubject to every ordinance of man*; that *Rulers are not a terror to good works but to the evil*, and many more to equal purpoſes.

3. Neither ought the precept of charity and forgiveneſs, which Chriſt ſo often, ſo earneſtly, ſo ſeverely preſſes, evacuate the power of Princes. For the precept of forgiving offendors does not hinder parents from correcting their offending children; nor Maſters from chaſtiſing their rebellious ſervants; nor the Church from excommunicating them that walk diſorderly: theſe things rely upon plain Scriptures, and upon neceſſity, and experience; and they doe evince thus much without any further diſpute, that ſome puniſhment may ſtand with the precept of forgiveneſs; or at leaſt, if he who is injur'd may not puniſh without breach of charity, yet ſome one elſe may. And if it be permitted to the power of man to puniſh a criminal without breach of charity; the power of the Magiſtrate muſt be without all queſtion; and that ſuch a power can conſiſt with charity there is no doubt, when we remember that the Apoſtles themſelves and the primitive Churches did deliver great Criminals over to the power of Sathan to be *buffeted, even to the deſtruction of the fleſh, that their Souls might be ſav'd in the day of the Lord.* S *Paul* delivered *Elymas* to blindneſs, and S. *Peter* gave *Ananias* and *Saphira* to a corporal death.

4. But the great Caſe of Conſcience is this. Although all puniſhments leſs then death may like paternal corrections conſiſt with charity (for they may be diſciplines and emendations) yet in death there is no amendment; and therefore to put a man to death *flagrante crimine*, before he hath mortified his ſin, or made amends for it; that is, before it is pardon'd, and conſequently to ſend him to hell, is the moſt againſt charity in the world, and therefore no man hath power to doe it: for God never gave to any man a power to diſpenſe juſtice to the breach of charity; and that diſpenſation which ſends a man to Hell, is not for edification, but for deſtruction.

5. To this I anſwer, 1. That it is true that whatſoever is againſt charity is not the effect of juſtice; for both of them are but imitations and tranſcripts of the Divine attributes and perfections, which cannot be contrary to each other. But when the faults and diſorders of mankind have intangled their own and the publick affairs, they may make that neceſſary to them, which in the firſt order and intention of things was not to be endur'd. Thus we cut off a leg and an arm to ſave the whole body; and the publick magiſtrate, who is appointed to defend every mans rights, muſt pull an honeſt mans houſe to the ground to ſave a town or a ſtreet: and peace is ſo dear, ſo good, that for the confirming and perpetuity of it, he may commence a warre which were otherwiſe intolerable. If therefore any evil comes by ſuch miniſteries of juſtice, they who introduc'd the neceſſity muſt thanke themſelves. For it is neceſſary it ſhould be ſo; though it be but a ſuppoſitive and introduc'd neceſſity; onely he that introduc'd it, is the cauſe of the evil; not he that is to give the beſt remedy that he hath.

6. 2. No man is to anſwer for an accidental effect that is conſequent to his

his duty. *In omni diſpoſitione attenditur quod principaliter agitur*, ſaies the law, *l. ſi quis nec cauſam, ff. ſi certum petatur.* I am to look to what is principally deſign'd, not what accidentally can happen. If I obey God, it is no matter who is offended. If I ſee that my neighbour will envy me for doing good, and his eye will be evil becauſe I am good, I am not to omit the good, for fear his Soule periſh; when my good is rather apt to doe him good then evil: he is to anſwer for it, not I, for nothing that I doe makes him evil, he makes himſelf ſo by his own choice. There are many men that turn the grace of God into wantonneſs; and abuſe the long ſuffering and patience of God, and turn that into occaſions of ſin which God meant for the opportunities and endearments of repentance; but if God ſhould leave to be gracious to mankind in the ſame method, out of charity and compliance with the intereſt of the Souls of ſuch miſerable perſons, as they would be never the better, ſo the other parts of mankind would be infinitely the worſe.

7. 3. It is true that Charity is the duty of every Chriſtian; but as all Chriſtians are not to expreſs it in the ſame manner, ſo there are ſome expreſſions of charity which may become ſome perſons, and yet be the breach of anothers duty: and ſome may become our wiſhes which can never be reduc'd to act; and becauſe that is all we can doe, it is all we are oblig'd to doe. When *Vertagus* was condemn'd to die for killing the brother of *Aruntius Priſcus*; the poor Father of the condemned man came and beg'd for the life of his miſerable ſon; but *Priſcus* out of the love of his murder'd brother beg'd with the ſame importunity that he might not eſcape; and both their effects were the effects of charity. The charity of a Prelate and a Miniſter of religion is another thing then the charity of a Prince. A Mother ſignifies her love one way and a Father another; ſhe by fondneſs and tender uſages, he by ſevere counſels and wiſe education; and when the Miniſter of religion takes care concerning the Soul of the poor condemn'd man, the Prince takes care that he ſhall doe no more miſchief, and increaſe his ſad account with God. The Prince and the Prelate are both of them Curates of Souls and Miniſters of Godlineſs; but the Prince miniſters by puniſhing the evil doer and rewarding the vertuous, and the Prelate by exhortation and doctrine, by reproof and by prayer, by Sacraments and diſcipline, by the key of power and the key of knowledg. The effect of this conſideration is this; that the magiſtrate by doing juſtice in the preſent caſe does not doe againſt charity; becauſe he does miniſter to charity in the capacity and proper obligation of a Magiſtrate, when he does his own work, which being ordain'd for good and not for evil, the office is then moſt charitable and moſt proper for him, when he miniſters to charity in his own way that God hath appointed him. By his juſtice he miniſters to the publick Good, and that is his office of charity. That is his work; let others look to their ſhare.

8. 4. The cutting off of a Malefactor is ſome charity to his perſon, though a ſad one; for beſides that it prevents many evils, and forces him to a ſpeedy recollection, and a ſummary repentance, and intenſe acts of vertue by doubling his neceſſity; it does alſo cauſe him to make amends to the law; and that oftentimes ſtands him in great ſtead before the Tribunal of Gods juſtice; *paullum ſupplicii ſatis eſt Patri*; God is ſometimes pleas'd to accept of a ſmall puniſhment for a great offence; and his anger

many times goes not beyond a temporal death, and the cutting off ſome years of his life.

9. 5. That which concerns the Magiſtrate is, that he be juſt and charitable too. Juſtice of it ſelf is never againſt charity; but ſome actions of ſuppos'd charity may be againſt juſtice. Therefore the Magiſtrate in that capacity is tied to no charity but the charity of juſtice, the mercies of the law; that is, that he abate of the rigor as much as he can, that he make proviſions for the Soul of the criminal ſuch as are fit for his need, that if he can delay, he doe not precipitate executions. In what is more, the ſupreme, the law-giver is to take care, and to give as much leave to the miniſters of juſtice as can conſiſt with the publick intereſt. For here it is that there is uſe of that propoſition, that all men are not tied to all the exterior kinds and expreſſions of charity, but as they are determin'd accidentally. It will not be ſuppos'd that the Judge is uncharitable if he doe not preach to the condemn'd criminal; or if he doe not give him money after ſentence, or viſit him in priſon, or goe to pray with him at the block; theſe are not the portions of his duty: but as his juſtice requires him to condemne him; ſo his charity exacts of him as *Judge* nothing but the mercies of the law.

10. 6. That which is neceſſary to be done, is not againſt any mans duty, or any precept of Chriſtianity. Now that ſome ſorts of perſons ſhould be put to death is ſo neceſſary, that if it were not done it would be certainly, directly and immediately a very great uncharitableneſs; and the Magiſtrate ſhould even in this inſtance be more uncharitable then he can be ſuppos'd to be in putting the criminal to death. For a high-way thief and murderer if he be permitted does cut off many perſons who little think of death; and ſuch as are innocent as to the Common-wealth, are yet very guilty before God: for whoſe Souls and the ſpace of whoſe repentance there is but very ill proviſion made, if they may live who ſhall ſend many Souls to hell, by murdering ſuch perſons who did not watch and ſtand in readineſs againſt the ſad day of their ſudden arreſt. If all ſuch perſons were to be free from afflictive puniſhments, the common-wealth would be no ſociety of peace, but a direct ſtate of warre, a ſtate moſt contrary to governments; but if there were any other leſs then death, the gallies and the Mines, and the priſons would be nothing but nurſeries of villains, which by their numbers would grow as dangerous as a herd of Wolves and Lions: and if ever they ſhould break into a warre, like *Spartacus* and his rabble, who knows how many Souls ſhould be ſent to Hell for want of time to finiſh their repentance?

11. 7. If the condemn'd Criminal had never any time to repent, if he had never thrown away any opportunities of ſalvation, he had never come to that paſs; and if he have, who is bound to give him as much as he will need? And if it be unlawful for a magiſtrate to put a criminal to death that hath not ſufficiently repented, then no villain ſhall ever die by the publick hand of juſtice; and the worſe the man is, the longer he ſhall live, and the better he ſhall eſcape: for in this caſe, if he reſolves privately that he never will repent, he hath blunted the edge of the ſword, and weakned the arme of juſtice for ever that ſhe ſhall never ſtrike.

8. God

12. 8. God hath given a commiſſion to Magiſtrates which they muſt not prevaricate: if therefore a Criminal falls under the rods and axes of the Conſuls who are Gods Miniſters for good to them that doe well, and for evil to them that doe evil; it is not the Magiſtrate who is to be blam'd, but the hand of God that is to be rever'd, who by this hand cuts him off, and it may be therefore thus cuts him off becauſe he will give him no longer time. However the Magiſtrate is to look to his rule, not to rare, and accidental events; which are onely in the power of the Divine providence and in the will of the Man to prevent.

13. 9. No man can ſay that a condemn'd Criminal that makes the beſt uſe of his time after ſentence, or after his juſt fears of it, or after the apprehenſion of the probabilities of it, ſhall certainly be damn'd for want of more time. For as no man knows juſt how much time is neceſſary; ſo neither can he tell how deep the repentance of the Man is, nor yet how ſoon God will return to mercy. Therefore upon ſo great uncertainties, and the preſumption and confidences relying upon ſuch a ſecret, to omit a certain duty is no way allowable. It is true there are amongſt ſome wiſe and pious perſons great fears in this caſe; but fear is very good when it is made uſe of to good purpoſes, to obſtruct the courſe of ſin, but not the courſe of juſtice. And ſome men fear in other caſes very bad; which yet ought not to be made uſe of to preſerve the lives of Murderers. Some fear that all Papiſts ſhall be damned, and ſome ſay that all Proteſtants are in as bad condition; and yet he that thinks ſo, would ſuppoſe the caſe too far extended if it might not be conſiſtent with charity to put (for examples ſake) the gunpowder Traytors to death, till they had chang'd their religion. Whatſoever we fear, we are to give our brethren warning of it while it is time for them to conſider; but theſe doubtful diſputes muſt not be us'd as artifices to evacuate the purpoſes and defenſatives of laws. And ſince the Magiſtrates cannot know what the ſentence of God concerning ſuch perſons ſhall be, they may hope well as readily as ill, and then there is no pretence to arreſt the ſentence beyond the prudent and charitable periods of the law.

14. 10. No change in government, no alteration of laws, no publick ſentences are to be made or alter'd upon the account of any ſecret Counſel of God; but they are to proceed to iſſue upon the account of rules, and meaſures of choice, and upon that which is viſible, or proved, that which is ſeen and heard, that which God commands and publick neceſſities require; for otherwiſe there can be no rule, no orderly proceedings, no uſe of wiſe diſcourſes, but chance and fear and irregular contingencies muſt overrule all things.

15. 11. The Magiſtrate gives ſentence againſt Criminals for ſingle acts, not for vitious habits; for concerning theſe he hath nothing to doe, and if the Criminal periſh for theſe, it is onely chargeable upon his own account. But if by the hand of juſtice he dies for a ſingle act; the ſhorter time that is uſually allowed to thoſe that are appointed to die may be ſo ſufficient that if the Criminal make full uſe of it, his caſe is not ſo deſperate, as that the objection can prevail: for if there be nothing elſe to hinder him, it may be very well; but if there be any thing elſe, *that* he and not the Magiſtrate was firſt to have conſidered; for himſelf knew of it, the Magiſtrate did not.

12. Every

16. 12. Every man that lives under government knows the conditions of it, thoſe publick laws, and the manners of execution; and that he who is ſurpris'd in his ſin by the Magiſtrate, ſhall be cut off like him who by a ſudden ſickneſs falls into the hands of God. It is a ſudden death, which every man ought to have provided for; onely in this caſe it is more certain, and to be expected: and he that knows this to be his condition, if he will deſpiſe the danger, when he falls into it, cannot complain of the juſtice of the law, but of his own folly which neglected life, and choſe death and ſwift deſtruction.

See the Doctr. and Practiſe of Repentance, chap. 5. ſect. 5. p. 280.

17. Though from theſe conſiderations it appears that the pretence of charity cannot evacuate that juſtice which hath given commiſſion to all lawful Magiſtrates, and warrant to all capital ſentences, and authority to all juſt warrs, in which it is more then probable many will be kill'd that are not very well prepared: yet this power of inflicting capital puniſhments muſt not be reduc'd to act in trifling inſtances, for the loſs of a few ſhillings or for every diſobedience to command; it muſt not be done, but in the great and unavoidable neceſſities of the Common-wealth. For every Magiſtrate is alſo a Man; and as he muſt not neglect the care and proviſions of that, ſo neither the kindneſſes and compaſſion of this. Nothing can make recompence for the life of a man, but the life of a better, or the lives of many, or a great good of the whole community. But when any of theſe is at ſtake, it is fit the innocent be ſecur'd by the condemnation of the Criminal. And this was excellently diſputed by *Cicero* in his argument againſt *Calenus* upon this very queſtion. *Hoc intereſt inter meam ſententiam & tuam: ego nolo quenquam civem committere ut morte multandus ſit; tu etiamſi commiſerit, etiam conſervandum putas. In corpore ſi quid ejuſmodi eſt quod reliquo corpori noceat, uri ſecarique patiamur, ut membrorum aliquod potius quam totum corpus intereat. Sic in Reip. corpore ut totum ſalvum ſit, quicquid eſt peſtiferum amputetur. Dura vox; multo illa durior: ſalvi ſint improbi, deleantur innocentes, honeſti, boni, tota Reſpublica.* Cicero *would have no Citizen deſerve to die*; but *Calenus* would have *none die though he did deſerve it.* But *Cicero* thought it reaſon that as *in the body* natural *we cut off an arm to ſave the whole, ſo in the body politick* we doe the ſame, *that nothing remain alive that will make the other die. It is a hard ſentence: it is true, but this is a harder. Let the wicked be ſafe; and let the innocent, the good, the juſt men, the whole common-wealth be deſtroyed.*

Philippic. 8.

18. This we ſee is natural reaſon, but it is more then ſo; it is alſo a natural law, expreſs'd and eſtabliſhed by God himſelf. *He that ſheddeth mans blood, in man*, or *by man, ſhall his blood be ſhed:* which words are further explicated by the *Chaldee Paraphraſt*, *Qui effuderit ſanguinem hominis cum teſtibus, juxta ſententiam Judicum ſanguis ejus fundetur*, He that ſheds the blood of man with witneſſes, his blood ſhall be ſhed by the ſentence of the Judge. For the Majeſty of the ſupreme Prince or Judge

Gen. 9. 6.

——*juſti*
Vim terroris habet, procul an propè, præſto vel abſens:
Semper terribilis, ſemper metuenda, ſuoque
Plena vigore manet, nullique impunè premenda
Creditur, & ſemper cunctis, & ubique timetur.

Lib. 4

ſaid *Guntherus* with greater truth then elegance: he hath the force of a juſt terror in all places, at all times, and upon all perſons. And in purſuance of

of this law all communities of men have comported themſelves, as knowing themſelves but Miniſters of the Divine ſentence; and that which is the voice of all the world is the voice of nature, and the voice of God. The ſumme of theſe things I give in the words of S. *Auſtin. Non ipſe occidit qui miniſterium debet jubenti, ſicut adminiculum gladius eſt utenti. Ideo nequaquam contra hoc præceptum fecerunt, quo dictum eſt, Non occides, qui Deo authore bella geſſerunt, aut perſonam gerentes publicæ poteſtatis, ſecundum ejus leges, hoc eſt, juſtiſſimæ rationis imperium, ſceleratos morte puniverunt.* They who make juſt warrs, and thoſe publick perſons who according to the laws put malefactors to death, doe not break the Commandement which ſaies, Thou ſhalt not kill. For as the ſword is not guilty of murder which is the inſtrument of juſt executions, ſo neither is the man that is the Miniſter of the Judge, nor the Judge who is the Miniſter of God; Θεοῦ διάκονος, ἔκδικος εἰς ὀργὴν, *Gods Miniſter of revenge and anger*: and by fear to reſtrain the malice of evil men, and to prevent miſchief to the good, is the purpoſe of authority and the end of laws. So *Iſidore, Facta ſunt leges ut earum metu humana coerceatur audacia, tutaque eſſet inter improbos innocentia, & in ipſis improbis formidato ſupplicio refrænaretur nocendi facultas.* Fear is the beginning of wiſdome, and fear is the extinction and remedy of ſolly; and therefore the laws take care by the greateſt fear, the fear of death, to prevent or ſuppreſs the greateſt wickedneſs.

Lib. 4. Etymol. c. 21. & habetur. diſt. 4. can. facta ſunt leges

RULE II.

Penal laws doe ſometimes oblige the guilty perſon to the ſuffering the puniſhment, even before the ſentence and declaration of the Judge.

1. THat this is true concerning Divine Laws is without peradventure: not onely becauſe the power of God is ſupreme, meer, abſolute, and eternal, and conſequently can oblige to what, and by what meaſure, and in what manner, and to what purpoſes he pleaſe; but alſo becauſe we ſee it actually done in the laws and conſtitutions both Moſaical and Evangelical.

2. He that ſtrake out an eye or tooth from a ſervant was bound to give him his liberty: that is, as his ſervant was a loſer, ſo muſt he that cauſed it; the man loſt his tooth, and the Maſter loſt the man; he gains his liberty that loſt an eye. Now that this was to be done by the Maſter himſelf without compulſion from the Judge, is therefore more then probable, becauſe God who intended remedy to the injur'd ſervant had not provided it, if he left the matter to the Judge, to whom the ſervant could have no recourſe without his Maſter pleaſe; and if he give him leave to goe, it is all one as doing of it himſelf, for he that gives leave that himſelf be compell'd, firſt chuſes the thing, and calls in aid from abroad to ſecure the thing at home. But therefore God bound the conſcience of the man, tying him under pain of his own diſpleaſure that the remedy be given, and the penalty ſuffered and pai'd under the proper ſentence of the obliged criminal. Exod. 21. 25, 26.

3. To the ſame purpoſe was that law made for him that lies with a woman in the days of her ſeparation, he ſhall be unclean until the evening; now

Now that this was not to be inflicted by the Judge, but that the guilty person ſhould himſelf be the executioner of the penalty, is therefore certain, becauſe by another law concerning the ſame legal uncleanneſs it was decreed, that the fact ſhall be capital, that is, if it come before the Judge: of which I have already given account.

Lib. 2. chap. 2. Rule 3. n. 8.

4. Thus alſo God impoſed upon him that eat of the holy things unwittingly, the burden of paying the like, & a fifth part beſides for puniſhment of his negligence and want of caution. This himſelf was to bring, together with the price of redemption or expiation. Now this being done againſt his will, might alſo be done without the obſervation of any other; and yet upon the diſcovery he was thus to act his own amends and penalty.

Levit. 22. 14.

5. And indeed the very expence of Sacrifices, to the bringing of which the criminals were ſentenc'd by the law, is ſufficient demonſtration of this inquiry; for it was no ſmall burden to them, and diminution of their eſtates, to take long journeys, and bring fat beaſts and burn them to the Lord; but to this they themſelves were tied, without injunction from the Prieſt, or ſentence from the Judge. And this appears, becauſe they were tied to a diſtinct puniſhment if the matter fell into the Judges hand: they were in caſe of theft to reſtore four-fold: But if they had ſinn'd in this inſtance or in any other that men commit, they were bound to come and confeſs it, and ſhall recompence the treſpaſs with the principal thereof, and adde a fifth part to him againſt whom they have treſpaſſed. This the Jews call *confeſſionem ſuper peccato ſingulari*, a ſpecial confeſſion of a ſin; to which becauſe the ſinner was ſentenc'd by the law, and had a lighter amends appointed him if he did it voluntary, but a much heavier if he came before the criminal Judge; it follows plainly that God tied theſe delinquents to a voluntary or ſpontaneous ſuſception of their puniſhment. It was indeed an alleviation of their puniſhment; for the criminal was bound to confeſs (ſay the Jewiſh Doctors) and ſay when the beaſt goes to ſacrifice, thinking as if he were going as the beaſt is, *O Domine, ego reus ſum mortis, ego commeruiſſem lapidari propter hoc peccatum, vel ſtrangulari propter hanc prævaricationem, vel comburi propter hoc crimen, O Lord, I am guilty of death, I have deſerv'd to be ſton'd, or ſtrangled, or burnt alive for this crime*, according as the ſin was: but his being the executioner of the Divine ſentence in the leſſer inſtance did prevent the more ſevere and intolerable condemnation.

Num. 5. 6.

וידוי על עסק מיוחד

6. For indeed ſuch is the mercy and diſpenſation of God: Gods law decrees evil to him that does evil: if we become executioners of the law of God and of his angry ſentence, we prevent the greater anger of God; according to that of S. *Paul, judge your ſelves, brethren, that ye be not judged of the Lord.* If we humble our ſelves, God will exalt us; if we ſmite, he will ſpare; if we repent, he will repent: but therefore in theſe caſes between God and us it is ſo far from being a grievance, that we become executioners of the ſentence decreed by law againſt us, that though it be an act of juſtice in God to oblige us to it, yet it is alſo a very great mercy. For as in the law of *Moſes*, the ſpontaneous ſuſception of the puniſhment did prevent the heavier hand of the Judge from falling on him; ſo in the Evangelical law, it prevents the intolerable hand of God. So that in relation

1 Cor. 11.

relation to the law of God it is an action of repentance; and repentance being a penal or punitive duty, he that was tied to bring in his own oblation, to make his own amends, to confeſs willingly his ſin, was in effect tied to nothing but to a voluntary repentance.

7. And thus it is alſo in ſome proportion in humane laws. For by theſe premiſſes thus much is gain'd, that to oblige the criminal to a ſpontaneous ſuffering of the puniſhment appointed by the laws of a juſt ſuperior is not naturally unjuſt, and it is not alwaies intolerable, and it may be very reaſonable, and it may be a deſign of mercy, or at leaſt a very apt miniſtery of juſtice: and therefore there can be no reaſonable objection againſt it, but that upon juſt account, and in juſt meaſures, and for great reaſon, and by the proportions of equity it may be done in humane laws.

8. For 1. Whatſoever is not againſt the law of Nature, nor the law of God, may be done or enjoyn'd to be done by the laws of Man; for the power of Magiſtrates is the next great thing to God and Nature. Now concerning this, we have ſecurity not onely from the foregoing inſtances, but from the law of Chriſt concerning divorce upon the inſtance of adultery: the offending party looſes his or her right reſpectively over the body of the other, and cannot lawfully demand conjugal rights. The injurious perſon may begge for pardon and reſtitution; but is unjuſt if he require any thing as duty. The woman looſes her rights of ſociety, and the Man of ſuperiority, in caſe they be adulterous; and if they doe not quit their former rights, and ſit down under their own burden, and miniſter the ſentence of God by their own hands, they ſin anew: every ſuch demand or act of dominion is iniquity and injuſtice, it is an act of an incompetent power, and therefore, under pain of a new ſin, they muſt not act under it.

9. 2. A man can inflict puniſhment upon himſelf. Thus *Zacheus* in expiation of his ſins offer'd half his goods to the poor, and reſtitution fourfold; which was more then he did need; for if his confeſſion and reſtitution were ſpontaneous, he was tied onely to the principal, and the ſuperaddition of a fifth part, as appears above. But he choſe the puniſhment, even ſo much as the Judge himſelf could have inflicted. Thus we read of a Biſhop in the primitive ages of the Church who, *quia ſemel tactu fœmineo ſorduerat, becauſe he had once fallen into uncleanneſs*, ſhut himſelf up in a voluntary priſon for nine years together: and many we read of who out of the Spirit of penance liv'd lives of great auſterity, uſing rudeneſſes to their bodies; by the pain of their bodies to expiate the ſin of their Souls. Now whatſoever any man hath power to doe to himſelf, that the law hath power to command him; ſuppoſing a reaſon or a neceſſity in the law proportionably great to the injunction, and to be of it ſelf a ſufficient cauſe of the ſuffering. It is true a man may doe it to himſelf to pleaſe his humor, or for vain-glory, or out of melancholy. I doe not ſay he does well in ſo doing; but that he hath power to doe it, without doing injury to any one: and if he does it to himſelf without cauſe, or without ſufficient cauſe, he does no man wrong; he does no more then he hath power to doe, alwaies provided he keeps within the limits of the ſixth Commandement. Now although the law pretends not to this power of doing it without reaſon, becauſe all the power of the law is ἐν τῷ πρὸς τι *in relation* to others, in commutative and diſtributive juſtice, and publick and private charities; yet

the ſame authority which any man hath over himſelf in order to private ends, the law hath over him in order to the publick; becauſe he is a part of the publick, and his own power over himſelf is in the publick, as every particular is in the univerſal. Nay the law hath a greater power then the man; for a man hath not power over his own life, which the law hath; ſo that whatever a man alone can doe, that the law can command him to doe: (except it be in ſuch things which are wholly by God left in a mans power, and are ſubjected to no laws of man, and commanded by no law of God; as in the matter of ſingle life, and other counſels Evangelical) the ſame things (I ſay) though not for the ſame reaſons. If therefore the man can upon himſelf inflict an evil which he hath deſerved, the law can compel him, that is, ſhe hath competent authority to doe it: and then he is bound in Conſcience.

10. 3. In matters favourable, and yet of great intereſt, we find that there are many events by the ſentence of the law without the ſentence of a Judge. Thus the right of Primogeniture is ſufficient ordinarily to enter upon the inheritance without a ſolemn decree of Court; and if we conſider the reaſon of this, it will be of equal force in the preſent inquiry. For when matters are notorious, and the people willing, and it is every mans caſe, and there is a great neceſſity, and publick utility, it is ſufficient when the rule is ſet; every man knowes his part, and his way, and Judges are not neceſſary. But when men are to blame, and there are intrigues in cauſes, and men will ſnatch at what is none of their own, and they will not underſtand their duty, nor judge righteous judgements in things concerning themſelves and their neighbours; it is neceſſary that there be Judges and Advocates and all the inferior Miniſters of laws, that where the law is intricate, and men cannot judge and diſcern aright, or when they are intereſted and will not, the law may be interpreted, and their duty explained, and every man righted that otherwiſe would be wrong'd. The ſentence of the Judge is but accidentally neceſſary: for the law ſaying that the eldeſt Son is heir to an inteſtate Father, the caſe is plain, and who is the eldeſt Son is notorious, and he is willing enough to enter upon the inheritance; and therefore beſides the law in this caſe there needs no ſentence of the Judge. Now the law is as plain in the condemnation of ſome crimes, and the aſſignation of ſome puniſhments. But becauſe men are not willing to enter into puniſhment, and they are not tied publickly to accuſe themſelves, therefore there are Judges to give ſentence, and executioners appointed. And this is well enough in ſome caſes: but becauſe there are ſome caſes in which it is neceſſary that the laws be obeyed in private as well as in publick, and yet without penalties a law is but a dead hand and a broken cord; the law annexes puniſhments, but is forc'd to truſt the ſinning hand to be the ſmiter, becauſe the private action cannot be publickly puniſh'd, becauſe not brought before the Judge.

11. 4. Beſides this, there are ſome actions of ſo evil effect as to the publick, that for deteſtations ſake they are to be condemn'd as ſoon as done, hated as ſoon as nam'd, ſtrangled as ſoon as born; and when by ſuch a ſentence the act is repreſented ſo foul, the man ſtands more ready for repentance, and himſelf is made the inſtrument. It is like a plain caſe in which any man may be allowed to be a Judge: for modeſty's ſake and for humanity every man will condemn ſome ſins; even though themſelves be the guilty

guilty persons. However the law takes the wisest course to give an universal sentence, that as the man is αὐτοκατήγορος, so he may be αὐτοκατάκριτος, *self-accus'd*, and *self-condemn'd*; and not to expect the contingent discovery, and the long deferred solemnities of law. *Some sins goe before unto judgment*, saies the Apostle, *and some follow after*: that is, some are condemn'd *ipso jure* by the law, and the man does *ipso facto* incurre the penalty; others stay for the sentence of the Judge.

12. 5. In the Court of Conscience every man is his own accuser, and his own executioner; and every penitent man is a Judge upon himself: God trusts man with the infliction of punishments and hard sentences upon himself for sin; onely if man fails, God will judge him to worse purposes; and so does the law. And as the impenitent people favour themselves to their own harm, for they sin against God even in their very forbearing to punish and to kill the sin: so doe the impenitent disobey the law by not being their own executioners of wrath: but in both cases the Conscience is oblig'd.

The thing therefore is just, and reasonable, and useful.

13. Now for the reducing of this to practice, and stating the cases of Conscience for the subject, as I have already done for the law-giver, I am to shew,

1. In what cases the Conscience of the subjects *can be bound* to inflict penalties upon themselves without the sentence of the Judge.

2. By what signs we shall know when the law *does intend so to bind*; that is, when the sentence is given by the law, so that the sinner is *ipso facto* liable to punishment, and must voluntarily undergoe it.

* * *

In what cases the Criminal is to be his own executioner.

14. 1. When to the execution of the punishment appointed by the law there is no action requir'd on the part of the guilty person, the conscience is bound to submit to that sentence, and by a voluntary or willing submission verify the sentence, such as are excommunication, suspension, irregularity and the like. Thus if irregularity be *ipso facto* incurr'd, the offending person is bound in Conscience not to accept a benefice or execute an office to which by that censure he is made unhabile and unapt. If a law be made that whoever is a common swearer shall be *ipso facto* infamous, he that is guilty is bound in Conscience not to offer testimony in a cause of law; but to be his own Judge and executioner of that sentence. But this is not true in all cases, but with the provision of the following measures.

15. 2. If the law imposes a penalty to be incurred *ipso facto*, yet if the penalty be moderate, equal and tolerable, the Conscience is oblig'd to a voluntary susception of it, before the sentence of the Judge, although the sentence be not privative, but executive; that is, though there be something to be acted by the guilty person upon himself. Thus if excommunication be incurred *ipso facto*, he that is guilty of the fact deserving it, & is fallen into the sentence, is not onely bound to submit to those estrange-

ments and ſeparations, thoſe alienations of ſociety and avoidings which he finds from the duty of others, but if by chance he be in a ſtranger place where they know not of it, and begin Divine ſervice, he is bound in Conſcience to goe away, to reſign an Eccleſiaſtical benefice if he be poſſeſſed of one, and other things of the ſame neceſſity for the verification of the ſentence: and the reaſon is, becauſe every act of Communion or office is in his caſe a rebelling againſt the ſentence of the law, the verification of which depends upon himſelf as much as upon others: for every ſuch perſon is like a man that hath the plague, all men that know it avoid him; but becauſe all men doe not know it, he is bound in Conſcience to avoid them, and in no caſe to run into their company, whether they know him, or know him not. Now becauſe this does not oblige to all ſorts of active executions of the ſentence, the following meaſures are the limit of it.

16. 3. The law does not oblige the guilty perſon to ſuch active executions of the ſentence which are meerly and intirely active; that is, which doe not include a negative, or ſomething contrary to the paſſive obedience. Thus if a Traitor be ſentenc'd to a confiſcation of goods, & this be *ipſo jure* incurred; the guilty perſon is not tied to carry all his goods to the publick treaſure, but he is tied not to change, not to diminiſh, not to aliene, not to uſe them otherwiſe then the law permits; becauſe if he doe any thing of theſe he does ſomething againſt the ſentence of the law, which in his caſe is rebellion and diſobedience. He may be truly paſſive and perfectly obedient to the ſentence of the law without hiring porters or waggons to carry his goods away; and the cuſtome of the law requires it not: but if he does aliene his goods he hath not ſo much as the paſſive obedience.

17. 4. In puniſhments corporal the laws doe not proceed without the ſentence of the Judge; except it be in the court of Conſcience, which is voluntary and by choice. Thus no man is *ipſo jure* condemn'd to be hang'd, or to be whipp'd, and no man is by any law bound to inflict ſuch puniſhments on himſelf; becauſe there is a natural abhorrency in ſuch actions, and it is that odious part of the law which is ſo much againſt nature and natural affection that none but the vileſt part of mankind are put to doe it unto others: & therefore becauſe the laws doe enjoyn no ſuch thing, the inquiry is needleſs, whether in ſuch caſes the Conſcience be oblig'd. But this is wholly depending upon the manners of men, and the preſent humors of the world. Amongſt ſome nations it was otherwiſe; and no queſtion but it might be ſo, if by circumſtances and the accidents of opinion and the converſation of the world the thing were not made intolerable.

De ſuperſtitione.

Plutarch tels of *Teribaſus*, that being arreſted by the officers of death he reſiſted with ſuch a bravery as he us'd againſt the Kings enemies; but being told that they were ſent by the King, he preſently reached forth his hands and offer'd them to the *Lictors* to be bound. But this was no great matter, it was neceſſary; and he that is condemn'd to die by a juſt authority, ows to it at leaſt ſo much that he reſiſt not, that he goe to death when he is called, that he lie down under the axe when he is commanded: So did *Stilico* at the command of his ſon in law, *Honorius* the Emperour. It was more which was done by the *Lithuanians* under *Vitoldus* their King, who was brother to that *Vladiſlaus* famous for a memorable battel againſt the Turks; he commanded many to death, and they died without the hang-mans

Hang-man's hand, being the executioners of their King's laws upon themſelves. And *Sabellicus* tels, that the *Ethiopians*, when their King ſent a Meſſenger with the Enſigns of Death, they preſently went home and died by their own hands. And this was accounted among them ſo ſacred an obligation, that when a young timorous perſon thought to have fled, his mother took her girdle and ſtrangled him, leſt he ſhould diſhonour his family by diſobeying the law out of fear of death. This was brave; but ſome men cannot be willing to dye, and few can well ſuffer it: but therefore it is hard that any one ſhould be compelled to doe it to himſelf: Therefore the laws of Chriſtendome are wiſe and gentle; and excepting that of the Lithuanian Prince, who is reported to have been a Tyrant, it is not enjoyned by any Prince or any law amongſt us, that I know of. But this is not onely true in active executions, but in the paſſive penalties, which are very violent and extreme. Thus if a man were juſtly condemn'd to be immur'd and ſtarv'd to death, he is tied to ſubmit to it, as not to rebel, and by violence quit himſelf: but he is not tied ſo much as to the privative execution; that is, he is not bound to abſtain from meat, if it be brought to him. Thus we find in ſtory, of the pious Perſian Lady, who to her Father condemn'd to death by ſtarving gave her breaſts to ſuck, and preſerv'd his life; and he not at all made infamous by not dying; but had his life given as the reward of his Daughters piety. Lib. 2. Enead. 1.

18. 5. Condemn'd perſons are not tied to put themſelves to death, or cut off a member with their own hands, or doe execution, by doing any action, or abſtaining from doing any thing, when ſuch doing or abſtaining is the ſufficient, or the principal, or the immediate killing or diſmembring. But to the under-miniſteries they are ti'de, which cannot be done without them; that is, they are tied ſo far to act, as without which they cannot ſuffer: and this is to be extended even to the principal and immediate act of killing, if they onely ordinarily can doe it. Thus a condemn'd Criminal is bound to go to execution, or ſuffer himſelf quietly to be carried; to lie down under the Hangman's Axe, to aſcend the Ladder: and it is a great undecency of dying, and directly criminal, which is frequent enough in *France*, and is reported of *Marſhal Biron*, to fight with the Executioner, to ſnatch the Weapons from the Souldiers, to force the Officers to kill him, as a wild Bull or Lion is kill'd. * But a condemn'd man is alſo tied to drink his poyſon, if that be appointed him by law; for though this be the immediate act of killing, to which ordinarily condemn'd perſons are not oblig'd, yet becauſe it cannot well be done by an Executioner without his conſent, or extreme violence, the guilty perſon is bound to drink it: the reaſon is, becauſe the law muſt be obeyed, and at leaſt a paſſive obedience is to be given to the ſevereſt of her ſentences; and the paſſiveneſs of a man is to be diſtinguiſh'd from the paſſiveneſs of a beaſt; that which cannot be avoided, muſt be born well: and therefore if a man be baniſhed, he muſt go away, and not be dragg'd; and he that ſo reſiſts the laws, that he forces her Miniſters to hale the Criminal to death like an unwilling Swine, deſerves the burial of an Aſſe or Dog. But this alwayes muſt ſuppoſe the laws to be juſt, and the power competent; for elſe the ſuffering perſon may conſider, whether the quiet ſubmiſſion to it be not a verification of the ſentence, or of the authority, though even in ſuch caſes it is not the Hang-man that is unjuſt, or to be reſiſted, but the Judge or the laws; and therefore they are to be proteſted or de-

clar'd againſt; for that is all which is left to be done by the oppreſſed perſon.

19. 6. When the puniſhments are principally or meerly medicinal, the Conſcience is bound to a voluntary execution of the ſentence, if the law requires it. For then the laws are precepts of inſtitution and diſcipline; and they are intended as mercies to the man, as well as to the publick; and of mercy every man may very well be Miniſter. It hath in it no undecency for a man to mingle his own ſevere potion, or let himſelf blood, or lance an Ulcer; and there is no more in the medicinal puniſhments of the law. Thus the laws can command us to faſt, to wear ſackcloth upon the bare skin, to go barefoot, to watch all night upon a ſolemnity of expiation, to inflict diſciplines, and the like; and for theſe we are to expect no other proceſs but the ſentence of the law, no Judge but our Conſciences, no Executioners but our ſelves. This relies upon the former reaſons, and the meer authority of the law, and the nature of the thing free from all objections.

20. 7. All ſentences of law which declare a fact to be void, or a charge and expences to be loſt, or a priviledge to ceaſe, are preſently obligatory to the Conſcience. *Irrita prorſus ex nunc, & vacua nunciamus*, is uſual in the ſtile of laws: *& ſit ipſo jure irritum & inane; & careat omni robore firmitatis, non obtineat vires*; let it be of no force, let it not prevail, let it be void, let him want all priviledge, all honour, dominion, action, or profit. For theſe and the like words, ſay the Logicians, have the force of an univerſal ſign, and doe diſtribute the Noun that is governed by the Verb; ſo they ſpeak; that is, it ſignifies and hath force in every particular, and in every period of time; *let it want force*, that is, *let it want all force*, that is, be of no uſe at all; *careat* is as much as *omnino, penitus, prorſus careat*.

21. 8. But theſe particulars ſuffer one limitation. A man is not bound to ſuffer the penalty of the law before the ſentence of the Judge, though the fact be ſentenc'd and condemn'd *ipſo jure*, if the fact be made publick, and brought before the Judge: Becauſe he taking it into his cogniſance, revokes the former obligation, by impoſing a new; by changing the method of the law, and leſſening the expectation. Thus by the laws Eccleſiaſtical, which were antiently of force in *England*, and are not yet repeal'd, *Notorius percuſſor Clerici*, he that openly or manifeſtly ſtrikes a Biſhop or Prieſt, is *ipſo jure* excommunicate; and to this ſentence the guilty perſon is bound to ſubmit: but in caſe he be brought before the Criminal Judge, and there be ſolemn proceſs form'd, he may ſuſpend his obedience to the law, becauſe the Judge calls him to attend to the *ſentence of a man*.

22. 9. But yet this is alſo ſo to be underſtood to be true in all *exceptis ſententiis irritantibus, excepting ſentences of the declaring actions to be null*, or *priviledges void*. For in theſe caſes, though the Judge doe take into his cogniſance the particular fault, and give a declarative ſentence of ſuch a nullity and evacuation, yet the action does not begin to be null, or the priviledge to ceaſe from the ſentence of the Judge, but from the doing of the fault, and the ſentence of the law: and therefore if a queſtion ariſes, and the Judge declare in it, the nullity is onely confirm'd by the Judge, but it was ſo by the ſentence of the law. Now the reaſon of the difference in

in the case of nullities and evacuations from other cases, is, because that which is not, hath no effect, and can produce no action; and as a Citizen told the people of *Athens*, who upon the first news of *Alexander's* death would have rebelled, Stay (sayes he) make no hast; for if he be dead to day, he will be dead to morrow: So if the Judge declare that such an action was null, it was null all the way; if he sayes it be dead now as a punishment of the fault, it was dead as soon as the fault was done; for it died by the hand of the law, not by the hand of the Judge. In other things the limitation is to be observed.

23. 10. And this also holds, in case that it be upon any account necessary that the Judge give a declarative sentence: for sometimes in regard of others, the Judge must declare such a person excommunicate, or depriv'd, or silenc'd, or infamous, that they also may avoid him, or doe their respective duties. But although the guilty person be in conscience regularly oblig'd before that declarative sentence, it being nothing but a publication of what was in being before; yet it being a favourable case, and the law not loving extremities and rigours of animadversion, it is to be presumed that the law gives leave to the guilty person to stay execution till publication. Because no man is bound *directly* to defame himself; which he will hazard to doe, if he executes the sentence upon himself before the Judge calls others into testimony and observation of the sentence. But though the sentence may upon favourable conditions be retarded, it must at no hand be evacuated. Therefore if the Judge meddle not, the man is left to the sentence of the law. And it is in all these particulars to be remembred, that the law is a mute Judge, and the Judge is a speaking law. It is the saying of *Cicero*; and from thence is to be concluded, that when the Judge hath spoken, he hath said no new thing, and he hath no new authority; and therefore if the law hath clearly spoken before, she hath as much authority to bind where she intends to bind, as if she speaks by her Judges. Lib. 1. Offic

24. These considerations and this whole question is of great use in order to some parts of repentance, and particularly of restitution. For if a law be made, that if a Clerk within twelve months after the collation of a Parish-Church be not ordain'd a Priest, he shall *ipso jure* forfeit his Ecclesiastical Benefice; if he does not submit to the sentence, and recede from his Parish, he is tied in Conscience to make restitution of all the after profits which he receives or consumes. So that it hath real effect upon Consciences, and the material occurrences of men.

25. But then for the reducing of it to practice, I am next to account by what signs we shall know when it is *sententia lata à jure*, when it is *lata ab homine*; when it is *lata*, and when *ferenda*; that is, when the Criminal is to attend the sentence of the Judge, and the solennities of law and execution by the appointed Officer; and when he is to doe it himself, by his own act or positive submission upon the sentence of the law.

* * *

Signs by which we may judge when the Criminal is condemn'd ipso facto.

26. The surest measures are these. Those laws contain *sententiam latam*;

and oblige the Criminal to a ſpontaneous ſuſception of the puniſhment, when 1. the law expreſly affirms, that the guilty perſon does *ipſo facto* incurre the ſentence without further proceſs, or ſentence of the Judge.

26. 2. When the law ſayes, that the Tranſgreſſor ſhall be bound in conſcience to pay the fine, or ſuffer the puniſhment contain'd in the Sanction of the law: which thing becauſe it is not uſual in laws, leſt I ſhould ſeem to ſpeak this to no purpoſe, I give an example out of the Spaniſh laws: for I finde in the laws of the Kingdome of *Caſtile* divers inſtances to this purpoſe; particularly, after the aſſignation of the Secretaries fee, appointing how much he may receive for the inſtruments of grace which he makes, it is added, *Jurent quod obſervabunt ea quæ in præcedenti capitulo ordinata ſunt, & quod non accipient munera, & quod ſolvent pœnas ſi in eas inciderint, ad quas ex nunc eos condemnamus, ità ut ſint obligati in foro conſcientiæ ad ſolvendum eas, abſque hoc quod ſint ad illas condemnati.* And the ſame alſo is a little after decreed concerning Judges and publick Notaries, that they take nothing beyond their allowed fees and ſalaries; and if they doe, they are to pay a certain fine. They are alſo to ſwear to obſerve that ordinance; and in caſe they doe not, that they will pay the fines to which the law does then ſentence them, that they be bound in Conſcience to doe it without any further condemnation by the ſentence of any man. Now the reaſon of this is, becauſe the Conſcience being intruſted and charg'd with the penalty, muſt ſuppoſe onely the duty and obligation of the man whoſe Conſcience is charg'd. It were fooliſh to charge the Conſcience, if the Conſcience were not then intended to be bound to ſee to the execution: but that could not be, if the ſentence of the Judge were to be expected; for that is a work of time, and will be done without troubling the Conſcience. Therefore the Conſcience being made the Sheriff or the Witneſs with the charge of execution, ſuppoſes the whole affair to be his own private duty.

Lib. 2. ordinat. Regal. tit. 9. l. 1.

Ibid. tit. 15.

27. 3. In cenſures Eccleſiaſtical it hath ſometimes been the uſage of the *Legiſlator* to impoſe a penalty, adding, that *donec ſatisfecerit*, untill ſuch or ſuch a thing be done, the Criminal ſhall not be abſolved: and this alſo is an indication that the ſentence is made by the law, and is *ipſo facto* incurred by the Delinquent, becauſe it leaves a ſecret tie upon his Conſcience obliging him to doe it; which were needleſs, if the Criminal Judge were to be intruſted with it, for he is otherwiſe ſufficiently intruſted with compulſories to ſecure the executions. Of this nature is that Conſtitution of *Innocentius* 4. *cap. Romana*, §. *procurationes*, *de cenſibus*, *lib.* 6. deſcribing the order for an Archbiſhop's viſitation of his own, and the Dioceſes of his Suffragan Biſhops; forbidding ſeverely him or any of his followers to receive a fee, bribe, reward, or preſent, *qualitercunque offeratur*, *under what pretence ſoever it be offer'd*, leſt he be found to ſeek that which is his own, not that which is of Jeſus Chriſt; adding, *Quod ſi fuerit contrà præſumptum, recipiens maledictionem incurrat, à qua nunquam niſi duplum reſtituat liberetur, He that ſhall preſume to doe otherwiſe, and receive any thing, ſhall incurre a curſe, from which he ſhall never be abſolved till he have reſtored it two-fold.* This relies upon the former reaſon.

4. *Panormitan*

28. 4. *Panormitan* gives this rule, That when a ſentence is ſet down in the law in words of the preſent or preter tenſe, it concludes the ſentence to be *ipſo facto* incurred; for whatſoever is *ipſo jure* decreed, is *ipſo facto* incurred: and of this decree, the preſent and paſt tenſes (ſaies the Abbat) are ſufficient indication. That is, if the words be damnatory; [as *excommunicamus, anathemate innodamus*, we doe deprive him of all rights and offices, &c.] for if the Judge uſing the like words paſſes a ſentence by virtue of thoſe words, ſo does the law, there being the ſame reaſon, the ſame authority, the ſame purpoſe ſignified by the ſame form of words. But if the words be of the preſent or paſt time, and yet not immediately damnatory, they doe imply the ſentence to be made afterwards; as *decernimus, definivimus, declaramus*, and the like. But if theſe words ſignify onely *miniſterially*, and not *principally*, that is, if they be joyned with other words in the preſent or paſt tenſe, then they declare the ſentence paſt and *ipſo facto* to be incurred; as *declaramus eum privatum dominio bonorum*; then the caſe is evident. Cap. Cæterum, &cap. Nonnulli de reſcriptis. cap. Novit. in fine de his quæ fiunt à prælato.

29. 5. Of the ſame conſideration it is when the ſentence of the law is ſet down with the verb ſubſtantive *Sum*, of what tenſe ſoever, unleſs by a future participle his nature be altered. Thus if a law ſaies, he that is abſent from his pariſh, without juſt cauſe to be approved by his Biſhop, above ſix moneths, *eſt*, or *erit infamis*, *is* or *ſhall be infamous*; the ſentence is *ipſo jure lata*, inferr'd by law, and *ipſo facto* incurr'd; becauſe the verb annexes the puniſhment to the fact without further proceſs. But if the verb be annexed to a future participle the caſe is altered; the ſentence is not to be undergone till the Judge have declared it. Now this relies upon the force of the words and the proper grammatical way of ſpeaking, which is the beſt way of declaring the mind of a man, or the mind of the law; unleſs where it is confeſſed that the law-giver did not intend, or uſe to ſpeak properly or by grammar, but by rude cuſtome. This note I have in *A. Gellius*, *Verbum eſſe & erit, quando per ſe ponuntur, habent atque retinent tempus ſuum; cum vero præterito junguntur, vim temporis ſui amittunt, & in præteritum contendunt.* If theſe words be not altered, they ſignify juſt by themſelves; *eſt* or *erit excommunicatus*, or *infamis*, ſignifies the puniſhment to begin as ſoon as the fact is done: but *eſt excommunicandus*, that is a future that relates to another time, and ſtaies for the ſentence of the Judge. But there muſt be ſomething more to clear this. For if *erit* be the future tenſe, why ſhall it not as well ſignify *ſententiam ferendam*, as *eſt excommunicandus*; ſince the verb is to be left to his own time, as well as the preſent tenſe brought thither by a future participle? Therefore to this I adde, that when the verb or participle does ſignify the action or miniſtery of ſome other perſon beſides the law and the Criminal, then it ſhews that the declaration of the Judge is to be expected; as in [*eſt excommunicandus*] that is, *he is to be excommunicated, viz.* by the ſentence of his *ordinary judge*: but *erit infamis*, or *erit excommunicatus*, implies no mans action at all, but ſuppoſes the thing finiſh'd without any more to doe; and then comes in the rule of *Nigidius* in *A. Gellius* before ſpoken of. *Infamis* ſignifies preſently, that is, he ſhall be ſo from the doing of the crime; and *excommunicatus* ſignifies preſent or paſt, and therefore by it the future tenſe ſhall be altered, and therefore the ſentence preſently incurred. But concerning this particular, who pleaſes to be Critical and curious in minutes may delight himſelf by ſeeing ſeventy five fallencies, and alterations of caſes by Lib. 17. cap. 7 Noct. Attic.

by the variety of tenſes expreſſed in words of law, in *Tiraquel* in his excellent and large commentaries *in L. Si unquam, C. De revocandis donationibus*, in the interpretation of the word *Revertatur*. For my own part, I am content to aſſign ſuch meaſures as are ſure, plain, eaſy and intelligible. *Nobis non licet eſſe tam diſertis.*

30. 6. The ſentence of the law does preſently oblige the Conſcience if it be expreſſed in adverbs of haſty or preſent time; ſuch as are *confeſtim, illico, extunc, extemplo, preſently, forthwith, from thence forward*, and the like: for thoſe who appoint the puniſhment to be incurred without any interval of time, in effect ſay that we are not to expect the dull and long protracted methods of Courts, and Judges, and commiſſions, and citations, and witneſſes, and adjournments. *Protinus, i. e. non expectato judiciorum ordine*, ſay the Lawyers.

Virgil. lib. 4. Æneid. & lib. 4. Geor.

Protinus ad regem curſum detorquet Hiarbas.

Forthwith, that is, without the longer methods of the Court.

Nec mora, continuò matris præcepta faceſſit.

Theſe words and their like have a preſent effect; and therefore doe ſignify a preſent obligation of Conſcience. Concerning the ſignification of which and the like words it is hard to ſay whether we are to be guided by the Lawyers or by the Grammarians. The Lawyers are the beſt witneſſes of ſentences, and precedents, and the uſages and cuſtomes of laws; and therefore can beſt tell how the laws are ſaid to bind, and what ſentences they are ſaid to contain: and becauſe by them we are to be judg'd in publick if queſtions doe ariſe, from them alſo we may take our rule in private. This ſeems reaſonable: but on the other ſide, I find that Lawyers themſelves ſay otherwiſe; and I have ſeen *Tiraquel* much blamed for quoting *Bartholus, Baldus*, and *Salicetus* for the ſignification of the word [*Mox, by and by*] which is of uſe in this preſent rule: becauſe though they were great Lawyers, yet they were no good Grammarians; and therefore that in theſe caſes, *Eraſmus* and *Calepine*, *Valla* and *Linacre*, *Cicero* and *Terence*, *Priſcian* and *Donatus*, were the moſt competent Judges. There is ſomething on both ſides which is to weigh down each other according as ſome other conſideration ſhall determine. But therefore as to the caſe of Conſcience, I ſhall give a better and ſurer rule then either one or other, or both: and that is,

Alph. à Caſtro lib. 2. de leg. pœn. cap. 7.

31. 7. This being in matters of load and burden, by the conſent of all men, the Conſcience and the guilty perſon is to be favour'd as much as there can be cauſe for. Therefore whenever there is a diſpute whether the ſentence of the law muſt be incurr'd preſently, or that the ſentence of the Judge is to be expected; the preſumption is alwaies to be for eaſe, and for liberty, and favourable ſenſes. Burdens are not to be impos'd upon Conſciences without great evidence, and great neceſſity. If the Lawyers differ in their opinions concerning the ſentence, whether it be already made, or is to be made by the Judge, let them firſt agree, and then let the Conſcience doe as ſhe ſees reaſon. Thus if the word [*Mox, by and by*] be us'd in a ſentence of law, becauſe we find that in ſome very good Authors it ſignifies with ſome interval of time, (as in *Cicero*, *Diſcedo parumper à ſomniis, ad quæ mox revertor*; &, *præteriit villam meam Curio, juſſitque mihi nunciari ſe mox venturum*;) therefore we may make uſe of it to our advantage, and ſuppoſe the Conſcience of a delinquent at liberty from a ſpontaneous execution

Lib. 1. de Divinat. Epiſt. ad Attic.

execution of a ſentence of law, if for that ſentence he have no other ſign, but that the word *Mox* is uſed in the law. *In pœnis benignior eſt interpretatio facienda*, In matters of puniſhment we are to take the eaſier part; and that is, to ſtay from being puniſh'd as long as we can: and in proportion to this *Panormitan* gives this rule, *When the words of the law ſignifie the time paſt, or the time to come, we are to underſtand it in the more favourable ſenſe; and that it includes the ſentence of the Judge, before which the Criminal is not oblig'd.* And to this very purpoſe the words of infinite and indefinite ſignification are to be expounded: and this anſwers many caſes of Conſcience, and brings peace in more; and the thing being reaſonable, peaceful, and conſonant to the common opinion of the Lawyers, ought to paſs for a juſt concluſion and determination of Conſcience.

Cap. in pœnis de reg. jur. lib. 6.

32. 8. After all, as there is eaſe to the Criminal, ſo there muſt be care of the law; and therefore when a law impoſes a puniſhment which would prove invalid, to no purpoſe and of no effect, unleſs it be of preſent force upon the committing of the fact, it is to be concluded, the law intends it for a *ſententia lata à jure*, that it preſently obliges the Conſcience of the guilty perſon. The reaſon is, becauſe it cannot be ſuppoſed that the law ſhould doe a thing to no purpoſe, and therefore muſt intend ſo to oblige as that the ſin be puniſhed. If therefore to expect the ſentence of the Judge would wholly evacuate the penalty, or make it inſufficient to doe the purpoſe and intention of the law; the ſentence of the law muſt be ſuffered by the guilty perſon without the Judge. And this is true, however the words of law be uſed, whether in the paſt, preſent, or future time, whether ſimply or by reduplication, whether imperatively or infinitely: ſuch are the penalties of infamy, irregularity, nullity of actions or contracts, eſpecially if they be of ſuch contracts which if they once prove valid, are ſo for ever, as in the contract of marriage. And therefore if a law be made that a man ſhall not marry her whom in her husbands life-time he had polluted; this muſt be ſuppos'd to be meant of nullifying the contract before it is conſummate; that is, it is a ſentence which the criminal muſt execute upon himſelf: for if he does not, but *de facto* marries the adultereſs, and conſummates the marriage, it will be too late to complain to the Judge; for he cannot annul the contract afterwards.

RULE III.

Penalties impos'd by the Judge muſt be ſuffered and ſubmitted to, but may not after ſuch ſentence be inflicted by the hands of the condemned.

1. THE firſt part of this Rule hath in it but little difficulty: for there is onely in it this variety; In all puniſhments that are tolerable, that is, all but death, diſmembring, or intolerable and extremely diſgraceful ſcourgings, and grievous and ſickly impriſonments, we owe not onely obedience to the laws, but reverence and honour; becauſe whatſoever is leſs then theſe, may without ſin, and without indecency, and without great violations of our Natural love and rights be inflicted and ſuffered.

But

2. But the other evils are ſuch as are intolerable in civil and natural account; and every Creature declines death, and the addreſſes and preparations to it with ſo much earneſtneſs, that it would be very unnatural and inhumane not to allow to condemn'd perſons a civil and moral power of hating and declining death, and avoiding it in all means of natural capacity and opportunity. A man may, if he can, redeem his life with money, but he muſt not corrupt juſtice; a man may run from Priſon if he can, but to doe it he muſt not kill the Gaoler; he may eſcape death, but he muſt not fight with the Miniſters of juſtice; he may run away, but he muſt not break his word; that is, he may doe what is in his natural capacity to avoid theſe violences and extremities of nature, but nothing that is againſt a moral duty. *Non peccat quiſquam cum evitat ſupplicium, ſed cum facit aliquid dignum ſupplicio; He that avoids his puniſhment ſins not, provided that in ſo doing he act nothing elſe worthy of puniſhment.* So S. *Auſtin.*

Lib. de mendac. c. 13.

3. This relies alſo upon a tacit or implicit permiſſion of law; for in ſentences given by Judges, and to be executed by the Miniſters of law, the condemn'd perſon is not commanded, nor yet truſted with the execution, and it is wholly committed to Miniſters of purpoſe: and therefore the law ſuppoſes the condemn'd perſon infinitely unwilling, and layes bars, reſtraints, guards and obſervators upon him; from all which if he can eſcape, he hath done no more then what the law-giver ſuppos'd he was willing to doe, and from which he did not reſtrain him by laws, but by force. But if to fly from priſon, or to decline any other ſentence be expreſly forbidden in the law, or if it be againſt his promiſe, or if a diſtinct penalty be annexed to ſuch eſcapings, then it is plain that the law intends to oblige the Conſcience, for the law cannot puniſh what is no ſin; it is in this caſe a tranſgreſſion of the law, and therefore not lawfull. But becauſe greater then death the law hath no puniſhment, it cannot but be lawfull for a condemn'd man to eſcape from priſon if he can, becauſe the law hath no puniſhment to eſtabliſh a law againſt flying from priſon after the ſentence of death. And if it be ſaid, that if a priſoner who flyes be taken, he hath more irons and more guards upon him, and worſe uſage in the priſon, that is matter of caution, not puniſhment, at leaſt not of law: for as for the Gaoler's ſpite and anger, his cruelty and revenge, himſelf alone is to give accounts.

4. But now for the other part of the Rule there is ſome more difficulty; which is cauſed by the great example of ſome great and little perſons, who to prevent a death by the hand of their Enemies, with the additions of ſhame and torment, have laid violent hands upon themſelves. So did *Zeno* and *Chryſippus*, *Cleanthes* and *Empedocles*, *Euphrates* the Philoſopher and *Demoſthenes*, *Cato Uticenſis* and *Porcius Latro*, *Ariſtarchus* and *Anaxagoras*, *Cornelius Rufus* and *Silius Italicus*. The Indians eſteem'd it the moſt glorious way of dying, as we find in * *Strabo*, [a] *Olympiodorus*, and [b] *Porphyry*: and *Euſebius* tels, that moſt of the Germans did uſe to hang themſelves. And amongſt the Romans they that, out of ſhame of being in debt, or impatience of grief, kill'd themſelves, might make their Wils, and after death they ſtood; *manebant teſtamenta, pretium feſtinandi*, ſaith [c] *Tacitus*, that was *the price of their making haſt.* *Plato* diſcourſing of this queſtion, ſaid, ὦ μῶν τοι ἴσως βιάσεταί τις αὐτόν· ὦ γὰρ φασι θεμιτὸν εἶναι, *Peradventure a man muſt not doe violence to himſelf, for they ſay it is not lawfull.*

Vide Diogen. Laert. in Zenon. Alexander Aphrodiſæus in 2. de anima. Lucian. in Macrob. Galen. 5. de loc. affect. Plutarch. in Pericle. Suidas. Plin. l. 1. ep. 12.

* Lib. 15.

a In Phædon. Platon.

b Περὶ ἀποχ. ἐμψ. 4.

c Annal. 6.

lawfull. Upon this, *Olympiodorus* diſcourſing on theſe words, reckons five caſes in which the Stoicks held it lawfull to kill themſelves. 1. For publick good. 2. For private neceſſity, to avoid a Tyrant's ſnare. 3. In caſes of natural madneſs. 4. When the body is intolerably afflicted. 5. and laſtly, In extreme poverty. And the Greeks commended a Pythagorean woman, who being ask'd why ſhe and her Sect did not eat beans, ſhe ſaid, ſhe would rather eat them then tell: but being commanded by a Tyrant to eat them, ſhe ſaid, ſhe would rather tell then eat them: but in fine ſhe cut out her tongue, becauſe ſhe would neither taſt nor tell. Thus *Seneca* tels of a Priſoner, that being to be expos'd to Beaſts in the Theatre, he broke his neck in the ſpondels of the wheel upon which he was drawn to the ſpectacles; and of another that dyed by a pertinacious holding of his breath. But that of *Sampſon*, and *Saul*, and *Razis*, are alſo brought into example; and are alledged to prove, that a man may a few hours or dayes haſten his death, if by ſo doing he takes the lighter part. S. *Chryſoſtome* tels of S. *Pelagia*; *Pelagia virgo quindecim annos nata ſponte ſibi necem maturavit. Parata quidem erat ad cruciatus tormentáque & omne ſuppliciorum genus perferendum: ſed metuebat tamen ne virginitatis coronam perderet: Being a Virgin of fifteen years of age, of her own accord ſhe haſtned death unto her ſelf: ſhe was indeed ready to have ſuffered all ſorts of moſt exquiſit torments, but ſhe was not willing to loſe the Crown of her Virginity.* Upon which fact of hers he thus diſcourſes, *Hence you may perceive, that the luſt of the wicked Hang-men ſtruck fear into* Pelagia, *and therefore from their injurious luſt the Maiden remov'd and ſnatch'd her ſelf: for if ſhe might have kept the Crown of her Virginity, and receive the Crown of Martyrdome beſides, ſhe would not have refus'd the Judgement-ſeat; but becauſe it was altogether neceſſary to loſe the one of them, ſhe had a juſt cauſe by her own voluntary death to prevent ſo great an injury.* And S. *Ambroſe* writing to his Siſter *Marcellina*, expreſly commends thoſe Virgin-Martyrs, who, to prevent their raviſhments, did haſten their death by voluntary precipices, or drowning; and particularly allows the fact of *Pelagia*. To which I adde alſo S. *Hierome*, who though he gives expreſs teſtimony to the Rule, yet he excepts the caſe of Chaſtity; *Non eſt noſtrum mortem arripere, ſed illatam ab aliis libenter excipere: unde & in perſecutionibus non licet propriâ perire manu, abſque eo ubi caſtitas periclitatur, ſed percutienti colla ſubmittere, We muſt not ſnatch death with our own hands, but willingly receive it when it is impos'd by others: and therefore in perſecutions we muſt not dye by our own hands, unleſs it be when our Chaſtity is in danger,*

——heu quanto melius vel cæde peractâ
Parcere Romano potuit fortuna pudori?

in other caſes we muſt lay down our necks under him that ſtrikes. And this ſeems reaſonable, becauſe as the Emperour ſaid, *Viris bonis metum iſtum [pudicitiæ amittendæ] majorem eſſe debere quam ipſius mortis*, He that fears to loſe his Chaſtity, fears more juſtly then he that fears to loſe his Life.

Vide Front. Ducæum Tom. 1. S. Chryſoſt. n. 618.

Lib. 3. de Virgin.

In cap. 1. Jonæ, in hæc verba, *Mittite me in mare.*

§. quod ſi ff. quod metus cauſâ.

5. To this I anſwer, that the caſe is indeed very hard; and every one in this is apt not onely to excuſe, but to magnifie the great and glorious minds of thoſe who to preſerve their honour deſpis'd their life. And therefore when the Moſcovites broke into *Livonia*, and in their ſacking of the City *Wenden* us'd all manner of cruelties and barbarous immanities to men and women, filling all the ſtreets and houſes with blood and luſt; a

great many of the Citizens running to the Caſtle, blew up themſelves with their Wives and Children, to prevent thoſe horrours and ſhames of luſt which they abhorred more then death. Now *Laurentius Muller*, who tels the ſtory, ſayes, that although the Preachers of *Riga* did in their Pulpits condemn this act of the Women and Maidens: yet the other Livonians and the Moſcovites themſelves did not onely account it ſad and pitiable, but excellent and admirable. And ſo the Author of the Books of *Maccabees* commends the fact of *Razias* as glorious and great: but yet this does not conclude it lawfull; for it is upon no account lawfull for a man of his own accord to kill himſelf.

Hiſtor. Septentr.

6. S. *Auſtin* denies to him the praiſe of magnanimity; *Magis enim mens infirma deprehenditur, quæ ferre non poteſt duram corporis ſui ſanitatem, vel ſtultam vulgi opinionem*, It is not greatneſs, but littleneſs of ſpirit, it is either impatience or pride, that makes a man kill himſelf to avoid trouble to his body, or diſhonour to his name amongſt fools. I ſuppoſe he had it from *Joſephus*, who excellently and earneſtly proves it to be cowardiſe to lay violent hands upon our ſelves; and both of them might have it from *Ariſtotle*, who will not allow it ſo much as to be brave and magnanimous for a man to kill himſelf for the avoiding of any evil, τὸ δ' ἀποθνήσκειν, φεύγοντι πενίαν ἢ ἔρωτα ἢ τι λυπηρὸν, οὐκ ἀνδρεῖου, ἀλλὰ μᾶλλον δειλοῦ, *To dye that we may avoid poverty, the torments of love, or any evil affliction whatſoever, is not the part of a valiant man, but of a coward.*

Expoſit. in Johan. tract. 52. Et lib. 19. de Civit. Dei.

Bell. Judaic. l. 3. c. 25.

Lib. 3. Ethic. cap. 7. & lib. 5. cap. ult.

Hoſtem cum fugeret, ſe Fannius ipſe peremit.
Hic rogo, non furor eſt, ne moriare mori?

Fannius being purſued by the Enemy, kill'd himſelf for fear. It may be cowardiſe to dye in ſome caſes; and to dye to preſerve our Chaſtity, is to ſin to avoid a ſin, like *Fannius* his caſe of fear,

——*mortiſque timorem*
Morte fugant, ultróque vocant venientia fata:

Metamorph l. 7. fab. 25.

or as S. *Chryſoſtome*'s expreſſion is, τοῦ τὸ ναυάγιον ναυαγίῳ προβάλλειν σαυτὸν, καὶ περὶ δέξασθαι πλησιὸν ἀποθνήσκειν τῷ δεῖν, *To dye before the wound is given, and to leap into the ſea for fear of ſhipwreck:* It is to doe violence to our body to preſerve it chaſt, to burn a Temple to prevent its being prophan'd. And therefore it is no juſt excuſe to ſay the Virgin-Martyrs did it leſt they ſhould loſe their Crown of Virginity: for though I ſhall not urge the example of *Abraham*, who rather ventur'd his Wives Chaſtity then his own life; yet this I ſay, that ſhe that loſes it by violence is never the leſs a Virgin before God, but much more a Martyr. But then if any one can ſuppoſe it fit to be objected, that if they loſt their Material Virginity, there was danger, leſt while they were abus'd, they ſhould alſo be tempted, and conſent: I ſuppoſe it will be ſufficient to anſwer, that a certain ſin is not to be done to avoid an uncertain; and yet further, that this could not be conſiderable in the caſe of the Martyrs: for beſides that it is ſuppos'd that they were infinitely fortified by the grace of God, their auſtere lives, and holy Habits, the rare diſcourſes of their ſpiritual Guides, their expectations of particular Crowns, the great reputation and honour of Virgins, and the ſpirit of Chaſtity, which then very much prevail'd; beſides all this, I ſay, they had then (particularly S. *Pelagia*, and the Virgins which S. *Ambroſe* ſpeaks of, had then) the ſentence of death not onely within them, but upon them; and the immediate torments which they expected after raviſhments, were a very competent mortification for any

ſuch

ſuch fears. And therefore as we ſhould call it cowardiſe or impatience for a man to kill himſelf that he may dye an eaſy death, and prevent the Hangman's more cruel hands; ſo it is a fooliſh and unreaſonable caution, and a diſtruſt of the ſufficiency of the Divine grace, to ruſh violently to death, leſt we ſhould be diſhonour'd or tempted in another inſtance: and it is not bravery, but want of courage; μαλακία γὰρ τὸ φεύγειν τὰ ὀδύνηρα, It is *ſoftneſſe* and *effeminacy* by death to flie the labours of a ſadder accident, ſaies *Ariſtotle*. But be it this or not this, it is certain it is ſomething as bad. Ubi ſuprà.

7. 1. It is directly againſt the Commandement: *and it is not for nothing that in all the Canonical books we find no precept, no permiſsion from God,* ſaith S. *Auſtin, ut vel adipiſcendæ ipſius immortalitatis, vel ullius carendi, cavendique mali causâ nobismet ipſis necem inferamus. Nam & prohibitos nos eſſe intelligendum eſt, ubi Lex ait, Non occides: That either for the gaining of immortality it ſelf, or for the avoiding of any evil we ſhould kill our ſelves.* It is ſomething like this which *Ariſtotle* ſaies, τὰ μὲν γὰρ ὅτι τῷ δικαίων, τὰ κατὰ πᾶσαν ἀρετὴν ἐστὶ τῷ νόμῳ πεταγμένα· οἷον ὁ κελεύει ἑαυτὸν ἀποκτείνειν ὁ νόμος· ἃ δ' μὴ κελεύει ἀπαγορεύει. *Thoſe things which the decrees have appointed agreeable to vertue thoſe are to goe for laws; as for example, The Law does not command any man to kill himſelf, and becauſe the law does not command, therefore it does forbid:* that is, becauſe the law commands no man (though he be condemn'd) to kill himſelf, therefore the law forbids him to doe it to himſelf; the law will not make a man executioner even of her ſentence, therefore ſhe permits him not to execute his own. But S. *Auſtin* addes beyond this, *For then we were forbidden to doe it, when God ſaid, Thou ſhalt doe no Murder.* And therefore it is obſervable that although God ſaid, Thou ſhalt not bear falſe witneſſe *againſt thy Neighbour*; yet he did not in this Commandement adde that clauſe of [*contra proximum*] nor in that of adultery; intimating that we muſt neither pollute nor deſtroy *our own* bodies any more then the body of *our neighbour*. Lib. 1. cap. 20. de Civit. Dei. Eth. Nic. li. 5. cap. 11.

8. 2. To prevent the hand of juſtice or of Tyranny in ſtriking, is ſometimes to prevent the hand of God in ſaving, and is an act of deſperation againſt the hopes of a good man, and the goodneſs of God: for helpe may come in the interval. *Caius* the Emperor commanded ſome to be put to death, whom he preſently after infinitely wiſh'd to have been alive; the haſt of the Executioners deſtroyed the men, more then the rage of the Prince: and it is all one if the man himſelf be haſty. And *Pontanus* tells that when *Angelus Ronconius* was accus'd to Pope *Nicolas* the fifth that he had given way to *Averſus* whom the Popes forces had encloſed, and gave leave to him to paſs over *Tiber*, the Pope commanded him to be proceeded againſt according to law; but when he roſe in the morning, and told his Miniſters he would more maturely conſider the cauſe of *Ronconius*, they told him he was that very night put to death, which caus'd extreme grief to the Pope. Concerning a mans life all delay is little enough: and therefore for himſelf to haſten it is againſt prudence, and hope, and charity.

9. 3. The argument of *Lactantius* is very good; *Si homicida nefarius eſt qui hominis extinctor eſt, eidem ſceleri obſtrictus eſt qui ſe necat*, If he that kills another is a wicked homicide, ſo alſo is he that kills himſelf. Nay he is worſe, ſaid S. *Chryſoſtom*. And this beſides that it relies upon the Lib. 3. Inſtit. cap. 18. In Epiſt. ad Gal. cap. 1.

unlimited, indefinite Commandement, which muſt be underſtood univerſally but where God hath expreſly ſet it limits; and though he hath given leave to publick Magiſtrates to doe it, who therefore are not under that Commandement, yet becauſe he hath not given leave to our ſelves to doe it to our ſelves, therefore we are under the Commandement: beſides this, I ſay, it relies alſo upon this reaſon, that our love to our ſelves is the meaſure of charity to our neighbours; and if we muſt not kill our neighbour becauſe we muſt love him as our ſelf, therefore neither muſt we kill our ſelves, for then we might alſo kill our neighbour, the reaſon and the meaſure, the ſtandard and the proportion being taken away.

10. 4. To put our ſelves to death without the Command of God or his lieutenant is impiety and rebellion againſt God; it is a deſertion of our military ſtation, and a violation of the proprieties and peculiar rights of God, who only hath power over our lives, and gives it to whom he pleaſes: and Lib. de Senect. to this purpoſe *Cicero* commends that ſaying of *Pythagoras*, *nequis injuſſu Imperatoris, id eſt, Dei, de præſidio & ſtatione vitæ diſcedat*; God is our General, and he hath commanded to us our abode and ſtation, which till he call us off muſt not be deſerted: and the ſame doctrine he recites out of Somn. Scip. Vide Platonem in Phædone. *Plato*, *Piis omnibus retinendum eſſe animum in cuſtodia corporis, nec injuſſu ejus à quo ille eſt datus ex hominum vita migrandum eſſe, ne munus humanum aſſignatum à Deo defugiſſe videamur.* The reaſon is very good: God gave us our ſoul and fixt it in the priſon of the body, tying it there to a certain portion of work, and therefore we muſt not without his leave goe forth, leſt we run from our work that God hath commanded us. *Joſephus* ſaies it is like a ſervants running away from his Maſters ſervice: *Et ſervos quidem fugientes ulciſci juſtum creditur, quamvis nequam Dominos fugerint; ipſi verò fugimus Deum & optimum Deum, impiè facere non videbimur? If ſervants flie from their cruel Maſters they are juſtly puniſhed; ſhall it not be accounted impiety to flie from our good God, our moſt gracious Maſter?* And therefore *Brutus* condemn'd the fact of *Cato* his Father-in-law, οὐκ ἐχ ὅσιον οὐδ' ἀνδρὸς ἔργον ὑποχωρεῖν τῷ δαίμονι, καὶ μὴ δέχεσθαι τὸ συμπῖπτον ἀνδρεῶς, ἀλλ' ὑπεκδιδρᾶναι, It was neither manly nor pious to ſink under his fortune, and to flie away from thoſe evils which he ought to have born nobly. And therefore the *Hebrews* called dying, ἀπολύεσθαι, a diſmiſſion: *Lord, now letteſt thou thy ſervant depart in peace*, ſaid old *Simeon*; *Nunc dimittis.* When God gives us our paſs, then we muſt goe, but we muſt not offer it an hour before: he that does otherwiſe is, 1. ungrateful to God, by deſtroying the nobleſt of his works below; 2. impious, by running from his Lib. 1. Tuſcul. ſervice; and 3. diſtruſtful of his providence. *Niſi Deus is, cujus hoc Templum eſt omne quod conſpicis, iſtis te corporis cuſtodiis liberaverit, in cælum aditus tibi patere non poteſt*, ſaid *Cicero*, Unleſſe God open the gate for you, you can never paſs from the priſon of the body, and enter into Heaven. Ad Carm. aur. Pyth. And the ſame is affirm'd by *Hierocles*, which I tell for the ſtrangeneſs of it; for he was a Stoick, yet againſt the opinion of his Sect, he ſpake on the behalf of reaſon and religion: And this is the Chriſtian ſenſe,

Iamb. 18. Δεῖ δ' δεδέσθαι μίχρις ἂν λύσῃ θεὸς,

Said S. *Gregory Nyſſen*, *We muſt ſtand bound, till God untie us.*

11. 5. For a man to kill himſelf is againſt the law, and the voice, and the very prime inclination of Nature. Every thing will preſerve it ſelf: *No man hateth his own fleſh, but nouriſheth and cheriſheth it*, ſaith the Apoſtle:

and

and therefore generally all Nations, as taught by the voice of Nature, by the very first accents which she utters to all men, did abhor the laying violent hands upon our selves. When some of the old Romans hanged themselves to avoid the slavery that *Tarquinius Superbus* impos'd upon them of making publick draught-houses, he commanded the dead bodies to be crucified, saies *Servius*. So did *Ptolemy* to the body of *Cleomenes* who had killed himself; and *Aristotle* saies it was every where receiv'd, that the dead bodies of self-murderers should be disgrac'd some way or other; ἀταφίαν ὑπερίζειν θάπτειν, by denying them burial: that was the usual way. So did the *Milesians* to their maidens who hang'd themselves, they expos'd their bodies to a publick spectacle: and *Strabo* tells that the Indian Priests and wise men blam'd the fact of *Calanus*, and that they hated those hasty deaths of impatient or proud persons. *Alieno scelere quam meo mori malo*, said King *Darius*, *I had rather die by the wickedness of another, then by my own.*

In 12. Æneid.

12. 6. *Aristotle* saies that they who kill themselves [hastening their own death before God or the publick commands them] are injurious to the Commonwealth; from whose service and profit they subtract themselves if they be innocent, and if they be criminal, they withdraw themselves from her justice: ἀδικεῖ ἄρα· ἀλλὰ τίνα; ἢ τὴν πόλιν. καὶ τις ἀτιμία πρόσεισι τῷ ἑαυτὸν διαφθείραντι, ὡς τὴν πόλιν ἀδικοῦντι, *He that kills himself does wrong to the city; and is after death disgrac'd as an unjust person to the publick.*

Lib. 5. c. 11. Eth.

13. Now then to the examples and great precedents above mentioned I shall give this answer. 1. That *Sampson* is by all means to be excus'd, because S. *Paul* accounts him in the Catalogue of Saints who died in faith; and therefore S. *Austin* saies he did it by a peculiar instinct and inspiration of the Spirit of God. But no man can tell whether he did or no: and therefore I like that better which *Peter Martyr* saies in this inquiry; He did primarily and directly intend onely to kill the enemies of God, which was properly his work to which he was in his whole calling design'd by the Spirit of God; but that he died himself in the ruine was his suffering, but not his design; but like a Souldier fighting against his enemies at the command of his General undertakes the service though he knows he shall die for it. Thus doe the Mariners blow up themselves in a sea-fight when they can no otherwise destroy the enemy; they doe it as Ministers of justice, and by command; else they are not to be excused: and he that gives it must take care it be just and reasonable. Thus did the brave *Eleazar Habaran* the brother of *Judas Maccabæus*: he supposing their grand enemy *Antiochus* to be upon a tower'd Elephant goes under the beast and kills him, who with his fall crush'd the brave Prince to death; he intended not to kill himself, but to kill *Antiochus* he would venture himself or suffer death.

Lib. 1. de civit. Dei, cap. 16, & 21.

1 Macc. 6. 43.

14. 2. The fact of *Saul* is no just precedent, it looks like despaire: but the Hebrews say that it is not lawful for any man to die by his own hands, unless the prolongation of his life be a dishonour to God, and to a cause of religion; and upon this account they excuse both *Saul* and *Sampson*, for they knew that if they should fall or abide respectively in the hands of scorners, the dishonour of their persons would disparage the religion, and reach to God. So they. But this is not right: for we onely are to take care

of the laws of God, and of his glory in the waies of his own appointment; for extraordinaries and rare contingencies, let him alone, he will ſecure his own glory.

15. 3. For *Razias*, *Lipſius* ſaies it is a queſtion whether it was well or ill done; and who pleaſe to ſee it diſputed may read *Lucas Brugenſis* on one ſide and *Nicolaus de Lyra* upon the other. For my own part I at no hand believe it fit to be imitated; but concerning what brave and glorious perſons doe, and by what Spirit they acted, I am not willing to give haſty ſentence: for there are many ſecrets which we know not; but we are to follow our Rule, and not to truſt any Spirit of which we are not ſure it is from God.

16. 4. But of that which is moſt difficult I have already ſpoken ſomething; but ſhall adde more: for it is a pitiable caſe that vertuous women, highly ſenſible of their honour, zealous for chaſtity, deſpiſers of life, ſhould not as well receive the reward of their ſuffering to preſerve the intereſt of chaſtity, as of any other grace; eſpecially ſince they chuſe death rather then ſhame, and would not willingly chuſe either, but being forc'd, run to death for ſanctuary. It is true, it is much to be pitied; but that's all: *ac per hoc & quæ ſe occiderunt, ne quicquam hujuſmodi paterentur, quis humanus affectus eis nollet ignoſci?* Every man (ſaies S. *Auſtin*) will pity, and be ready to excuſe, or to wiſh pardon to ſuch women who kill'd themſelves to preſerve their honour. *Cicero* tells of certain noble Virgins that threw themſelves into pits to avoid the ſhame of their enemies luſt: and S. *Hierom* tels of ſeven *Mileſian* Virgins, who, to prevent the rudeneſs of the Gaules that deſtroyed all *Aſia*, laid violent hands upon themſelves. The Greek Epigram mentions them with honour, but tells but of three:

Orat. de Provinciis conſularibus.

Adv. Jovinian.

Lib. 3. ἀνθολογ. ἐις γύνες ἢ γάμους

Παρθενικαὶ ἠϊθεαι πολιήτιδες, ἃς ὁ βιαιὸς
Κελτῶν εἰς ταυτὸν μῖξαν ἔπεφνεν ἄρης.
Οὐ γὰρ ἐμείναμεν αἷμα τὸ δυσσεβὲς, ἠδ' ὑμεναίους
Νυμφίον, ἀλλ' ἀΐδην ἠδεμόνα ἐυράμεθα.

They choſe a ſad death before a mixture with the luſtful blood of the *Galatians*. And the Jews tell of a captive woman of their nation, who being in a ſhip and deſign'd to raviſhment, ask'd her Husband if the bodies of them that were drown'd in the ſea ſhould riſe again: and when he had ſaid they ſhould, ſhe leap'd into the Sea. And among the Chriſtians that did ſo, there were many examples. Divers women of *Antioch* under *Diocletian*; more under *Choſroes* the Perſian; *Sophronia* under *Maxentius*; S. *Pelagia* before mention'd; and divers others. Theſe perſons had great Advocates; but I ſuppoſe it was upon the ſtock of pity and compaſſion that ſo much bravery ſhould be thrown away upon a miſtake: and therefore I find that S. *Chryſoſtome*, who commended this manner of death upon the account of chaſtity, yet is not conſtant to it, but blames it in his commentaries upon the *Galatians*: and the third *Council* of *Orleans* commanded that the oblations of them that died by the hands of juſtice ſhould be received, *Si tamen non ipſi ſibi mortem probentur propriis manibus intuliſſe*, alwaies provided that they did not prevent the hand of juſtice, that they did not lay violent hands upon themſelves. I end this with the ſaying of *Procopius*, which is a juſt determination of the caſe in it ſelf. Βίαιον καταγνῶναι χρὴ ἄνοια περιπλῆναι, τὸ δὲ ἐς θάνατον δράσαν ἀνόητον τῶν δραστηρίων πρόχημα

Gal. 1. 4.

Gothicor. 4.

πρόχημα ἐκ εὐπρεπὲς τοῖς γε σώφροσιν εἶ δοκεῖ, *A violent death, or a death haſtned by our own hands, is a thing unprofitable, and full of fooliſh violence; and ſince it wants prudent counſel, it is by wiſe men judged to be but the image and hypocriſie of valour and magnanimity.* To which he addes, καὶ τοι καὶ τοῦτο ἐκλογίζεσθαι χρὴ, μή τι δόξητε εἰς τὸ θεῖον ἀγνωμονεῖν, *This alſo ought to be conſidered, that no man ought to be impious or ungratefull towards God.* This is the definition of the caſe. But then as to the perſons of them that did ſo, I have nothing to ſay but this, that they ought not to be drawn into example: but for the whole, it was modeſt and charitable which was decreed by the French Capitulars, *Concerning him who hath kill'd himſelf,* Lib. 6. c. 70. *it is conſider'd, that if any one out of pity or compaſſion will give alms for their ſouls* (ſo was the cuſtome of thoſe times) *let him give, and ſay prayers and pſalms, but not celebrate the ſolemn ſacrifice for them; quia incomprehenſibilia ſunt judicia Dei, & profunditatem conſilii ejus nemo poteſt inveſtigare, Becauſe the judgements of God are incomprehenſible, and the depth of his counſels no man can fathom.* This was more gentle then that of *Virgil*,

Proxima deinde tenent mœſti loca qui ſibi lethum Æneid. 6.
Inſontes peperere manu, lucémque peroſi
Projecere animas, quam vellent æthere in alto
Nunc & pauperiem, & duros perferre labores.

He appointed a ſad place in Hell for them that ſo cheaply out of impatience, or to avoid a great trouble, threw away their ſouls. Fain would they now return to light, and joyfully would change their preſent ſtate with all the labours and ſhames which they with haſty death ſo earneſtly declin'd. But he knew nothing of it, neither doe I, onely that it is not lawfull. But how they ſhall fare in the other World who upon ſuch great accounts are tempted, is one of God's ſecrets, which the Great Day will manifeſt. If any man will be pleaſed to ſee more againſt it, he may find it in [a] S. *Auſtin*, [b] *Hegeſippus*, [c] *Nicephorus Blennidæs*, [d] *Heliodorus*, and divers others, well collected by *Fabrot* in his 5th Exercitation.

[a] Lib. 1. de civit. Dei, c. 20, 21, 26. ep. 61. ad Dulcit. & l. 11. contra 2. ep. Gaudent. c. 23.
[b] Excid. Hieroſ. 3. c. 17.
[c] Epitom. log. c. 4.
[d] Æthiop. 2.

RULE IV.

He that hath ſuffered the puniſhment is not diſcharg'd in Conſcience, unleſs he alſo repent of the diſobedience.

1. THis Rule is in effect the ſame with the firſt Rule of the firſt Chapter of this Book: but becauſe it is uſually diſcours'd of alſo under the head of Penal Laws, and there are many perſons who, when they have broken the law, and have ſuffered puniſhment, think themſelves diſcharg'd, and becauſe it miniſters ſome particularities of its own, I have therefore choſen diſtinctly to conſider it.

2. In this inquiry penal laws uſually are diſtinguiſh'd into laws purely penal, and mix'd. 1. Laws purely penal are ſuch which neither directly command, nor forbid, but impoſe a penalty upon him that does or omits an action reſpectively. So *Moſes* to the Children of *Iſrael*, *If a man* Exod. 22. 1. *ſhall ſteal an oxe or a ſheep, and kill it or ſell it, he ſhall reſtore five oxen for one oxe, and four ſheep for one.* 2. A mix'd penal law is when with the

precept or prohibition the penalty is adjoyn'd: ſo ſaid God, *Ye ſhall not hurt the widow or the fatherleſs; if ye hurt them, they ſhall cry unto me, and I will hear their cry, and my fury ſhall be kindled, and I will ſtrike you with the ſword, and your wives ſhall be widows, and your children fatherleſs.* And of the ſame nature is that Canon of the Council of *Agatho*, *We doe by a ſpecial order command all ſecular perſons to hear the whole Divine Service upon the Lord's Day, ſo that the people preſume not to go forth before the bleſſing of the Prieſt: but if any man ſhall preſume to doe ſo, let him be publickly puniſh'd by the Biſhop.*

Ibid.

Can. Miſſ. de conſecrat. diſt. 1.

3. Other laws are purely moral, that is, preceptive without any penalty. This diſtinction *Silveſter* derides as childiſh, and of no uſe; but others deride him: but whatever uſe it can be of to other purpoſes, it is of little in this. For whether the penalty be annexed or no, it obliges to penalty *; and therefore whether it be preceptive or no, it alſo obliges to duty: and we ſee it in ocular demonſtration in divers of the Levitical and moral laws of God, which ſometimes are ſet down in the ſtile of laws purely penal, and the ſame laws in other places are *penal* and *prohibitive*.

* *Tacitè permiſſum eſt quod ſine ultione prohibetur.* Tertull. 1. adv. Marc.

3. 1. But why are puniſhments decreed in laws? are they for the obedient, or for the diſobedient? for good men, or for bad? Certainly, for them that doe not obey. Now they that obey not, doe well or ill, or it is indifferent whether they doe or no: if they doe well, they are to be rewarded, and not puniſhed; if the thing after the ſanction be ſtill indifferent, why ſhall he ſuffer evil that does none? But the caſe is plain, that in all juſt Governments the puniſhment is decreed in the laws, that the law may be obeyed; and unleſs it be equally good to the Prince that his Subjects obey or be puniſh'd, that is, unleſs it be all one to him whether they be happy and advantaged, or miſerable and puniſhed, and that he cares not whether the ſubject receives the good or the evil of the law, it cannot be ſuppos'd that when the ſubject is puniſhed, the law is ſatisfied in its firſt intention.

4. 2. Adde to this, If ſuffering the puniſhment does ſatisfie the law, then the Subject is not tied to obey for Conſcience ſake, but onely for wrath, expreſly againſt the Apoſtle; and then laws would quickly grow contemptible: for the great Flyes that break through the Cobweb-lawns of penal laws, would be both innocent and unconcerned; innocent, as not being tied in Conſcience, and unconcerned, as having many defenſatives againſt the fine.

5. 3. The ſaying therefore of S. *Auſtin* hath juſtly prevail'd, *Omnis pœna ſi juſta eſt, peccati pœna eſt, & ſupplicium nominatur*, *Every penalty is relative to an offence, and is called puniſhment.* And there can be no reaſon given why in laws there are differing puniſhments aſſign'd, but that they be proportionable to the greatneſs of the fault. It follows therefore, that whoever is oblig'd to ſuffer the puniſhment of the law, doe ask God's pardon and the King's, for having done a ſin by which onely he could be oblig'd to puniſhment. *Reatus* or guilt, both in Divine laws and in humane, is an obligation to puniſhment: for *reatus pœnæ* and *reatus culpæ* differ but as the right and left hand of a pillar; it is the ſame thing in ſeveral aſpects and ſituations. And *Lucius Neratius* was a fool, and a vile perſon; and having an abſurd humour of giving every man he met a box on the ear, he cauſed a ſervant to follow him with a bag of money, and cauſed him to pay him

Lib. 1. Retract. c. 9.

A. Gellius, lib. 20. cap. 1.

him whom he had ſmitten xxv *Aſſes*, a certain ſumme which was by the law of the XII Tables impos'd upon him that did an injury: but conſider'd not that all that while he was a baſe and a trifling fool for doing injury to the Citizens.

6. This Rule holds in all without exception: it ſeems indeed to fail in two caſes, but it does not; onely the account of them will explicate and confirm the Rule.

7. 1. In actions which are not ſins, but undecencies, or unaptneſſes to a ſtate or office and action, the evils that are appendant to them are alſo but *quaſi pœnæ*, half puniſhments: ſuch as is the irregularity that is incurred by a Judge that gives ſentence in a cauſe of Blood; he is incapable of entring into Holy Orders by the antient laws of the Church. A Butcher is made incapable of being of the Inqueſt of Life and Death: which incapacity is not directly a puniſhment, any more then it is a ſin to be a Butcher; but certain perſons are without their fault declar'd unfit for certain ſtates or imployments. Now this confirms the Rule, for ſtill the proportion is kept; and if it be but like a fault, the conſequent of it is but like a puniſhment. And if at any time theſe appendages are called *puniſhments*, it is by a *Catachreſis* or an abuſe of the word, and becauſe of the ſimilitude in the matter of it. So we ſay, the righteous are puniſhed, that is, they ſuffer evil, for their own trial, or for the glory of God: and ſo it is in the Law, *Sine culpa, niſi ſubſit cauſa, non eſt aliquis puniendus*, *No man is tobe puniſhed without his fault*, *unleſs there be cauſe for it*: that is, no man is to ſuffer that evil, which in other caſes is really a puniſhment, and in all caſes looks like one. And from hence comes that known Rule, and by the ſame meaſure is to be underſtood, *Etſi ſine cauſa non poteſt infligi pœna, poteſt tamen ſine culpa*. The word *pœna* is taken improperly for any evil conſequent or adjunct.

8. 2. This ſeems to fail in laws that are conditional or conventional; ſuch as are when the Prince hath no intention to forbid or command any thing, but gives leave to doe it, but not unleſs you pay a fine. Thus if a Prince commands that none ſhall wear Spaniſh cloth, or ride upon a Mule, or go with a Coach & ſix Horſes, under the forfeiture of a certain ſum; this ſum is a puniſhment, and the action is a fault: but if the ſubjects ſhall ask leave to doe it, paying the ſum, then it is a conditional or conventional law, and obliges not to obedience, but to pay the fine. For theſe laws are not prohibitive, but conceſſory; and there is no ſign to diſtinguiſh them from others, but the words of the law, the interpretation of the Judges, and the allowed practice of the ſubjects.

9. Of the ſame conſideration are all promiſes and vows and contracts which are made with a penalty annexed to the breakers. The intereſted perſon is firſt tied to keep his word: if he does not, he ſins. But if he does ſin he muſt therefore pay the penalty; and if he does not, he ſins twice. *Haud ſcio* (ſaies *Cicero*) *an ſatis ſit eum qui laceſſerit, injuriæ ſuæ pœnitere.* Lib. 1. Offic. It is not enough for him to repent of the injuſtice, but he muſt alſo pay his fine; and yet that does not acquit him from the firſt fault, but prevents a ſecond. He that ſo contracts is twice obliged, and the later fault is paid by the penalty, and the firſt fault by repentance and *that* together.

Rule V.

It is not lawfull for a guilty perſon to defend himſelf by calumny, or a lie, from the penalty of the law, though it be the ſentence of death.

1. ALL the wiſdome of Mankind hath ever been buſy in finding out and adorning *Truth*, as being that in which we are to endeavour to be like God, who is Truth eſſentially: and therefore *Pythagoras* in *Ælian* did ſay, that the two greateſt and moſt excellent works that God gave to Mankind to doe, are the purſuits of *Truth* and *Charity*; for theſe are excellencies for which God himſelf is glorious before Men and Angels. The Perſian *Magi* ſay, that *Oromagdes* (ſo they called the greateſt of their Gods) was in his body like *light*, and his ſoul was like *truth*; and that therefore by truth we are like to God, but by a lye we are made mortal (ſayes *Plato.*) *Veritas, quomodo Sol illuminans colores, & album & nigrum oſtendit, qualis ſit unuſquiſque eorum, ſic ipſa quoque refellit omnem ſermonis probabilitatem; merito à Græcis quoque acclamatum eſt, Principium magnæ virtutis eſt Regina veritas, As the Sun gives light to us, and diſtinction to black and white, ſo does truth to ſpeech; and therefore the Greeks did rightly affirm, that Truth is the beginning of the great Vertue,* that is, *of perfection,* or *vertue Heroical,* ſaid S. *Clement.*

Lib. 12. variar. hiſt.

Lib. 6. de Rep.

Clem. Alex. lib. 6. cap. 4.

2. This is true in all regards: but the queſtion is, whether Truth can be practis'd at all times. For God ſpeaks Truth becauſe it is his nature, and he fears no man, and hath power directly to bring all his purpoſes to paſs: but the affairs of men are full of intrigues, and their perſons of infirmity, and their underſtandings of deception, and they have ends to ſerve which are juſt, and good, and neceſſary; and yet they cannot be ſerved by truth, but ſometimes by errour and deception. And therefore the Antients deſcribed *Pan*, who was the ſon of *Mercury*, their God of ſpeech, with the upper part like a man, and the lower part like a beaſt, rough, hairy and deformed; not onely to ſignifie truth and falſhood, and that truth is ſmooth, even and beauteous, and a lye is rough, ugly, deformed, and cloven-footed, (*quia mendacii multiplex divortium*, ſayes one) but to repreſent, that in our ſuperiour faculties, and our intercourſe with the power above us, we muſt ſpeak truth, but that in our converſation with men below it is neceſſary ſometimes by a lye to advantage charity, by loſing of a truth to ſave a life. Here then is the inquiry,

1. Whether it can in any caſe be lawfull to tell a lye.

2. Whether it be lawfull to uſe reſtrictions and mental reſervations, ſo that what we ſpeak, of it ſelf is falſe, but joyned to ſomething within is truth.

3. Whether and in what caſes it is lawfull to equivocate, or uſe words of doubtfull ſignification with a purpoſe to deceive, or knowing that they will deceive.

4. Whether it be lawfull by actions and pretences of actions to deceive others for any end; and in what caſes it is ſo.

Queſtion

Question I.

Whether it can in any case be lawful to tell a lie.

3. To this I answer, that the Holy Scriptures of the Old & New Testament doe indefinitely and severely forbid lying. *A righteous man hateth lying*, saith Solomon; and *Agur's* prayer was, *Remove from me vanity and lies. For the Lord will destroy them that speak lies.* And our Blessed Saviour condemns it infinitely by declaring every lie to be of the Devil. *When he speaketh a lie he speaketh of his own, for he is a lier and the Father of it. Lie not therefore one to another*, saith S. *Paul*: *For all liers shall have their part in the lake which burneth with fire and brimstone.* Beyond these things nothing can be said for the condemnation of lying. Prov. 13. 5. 30. 8. Psal. 5. 7. Col. 3. 9. Revel. 21. 8, 27.

4. But then lying is to be understood to be something said or written to the hurt of our neighbour, which cannot be understood otherwise then to differ from the mind of him that speaks. *Mendacium esse petulanter, aut cupiditate nocendi aliud loqui, seu gestu significare, & aliud sentire*: so *Melanchthon*: To lie is to deceive our neighbour to his hurt. For in this sense a lie is naturally and intrinsecally evil; that is, to speak a lie to our neighbour is naturally evil. Not because it is different from an eternal truth, for every thing that differs from the Eternal truth is not therefore criminal for being spoken, that is, is not an evil lie: and a man may be a lier though he speaks that which does not differ from the Eternal truth; for sometimes a man may speak that which is truth, and yet be a lier at the same time in the same thing. For he does not speak truly because the thing is true; but he is a lier because he speaks it when he thinks it is false. That therefore is not the essence or formality of a lie. *Vehementer errant qui tradunt orationis esse proprium significare verum necessarium*, said *Scaliger*: A man may be a true man though he doe not alwaies speak truth. If he intends to profit and to instruct, to speak probably and usefully, to speak with a purpose to doe good & to doe no evil, though the words have not in them any necessary truth, yet they may be good words. *Simonides* and *Plato* say it is *injustice* and therefore evil: so does *Cicero*, and indeed so does the Holy Scripture, by including our neighbours right in our speaking truth; it is *contra proximum*, it is against our neighbour; for to himself no man can lie, and to God no man can lie, unless he be also an Atheistical person, and believes that God knows nothing that is hidden, and so is impious when he faies a lie. But a lie is an injury to our neighbour; who because he knows not the secret, is to be told that in which he is concerned, and he that deceives him abuses him.

5. For there is in mankind an universal contract implied in all their entercourses, and words being instituted to declare the mind, and for no other end, he that hears me speak hath a right in justice to be done him, that as far as I can what I speak be true; for else he by words does not know your mind, and then as good and better not speak at all. *Humanæ aures verba nostra talia judicant, qualia sonant. Divina vero judicia talia esse audiunt, qualia ex intimis proferuntur.* Though God judges of our words by the heart, yet Man judges of the heart by the words; and therefore in justice we are bound to speak so as that our neighbour doe not loose his right S. Gregor. lib. 26. Moral. cap. 7.

which

which by our ſpeaking we give him to the truth that is in our heart. And of a lie thus defin'd, which is injurious to our neighbour ſo long as his right to truth remains, it is that S. *Auſtin* affirms it to be ſimply unlawful, and that it can in no caſe be permitted, *Niſi forte regulas quaſdam daturus es quibus noverimus ubi oporteat mentiri, ubi non oporteat*; by way of confidence and irony: he condemns it all, *unleſs peradventure* (ſayes he) *you are able to give us rules when a man may lie, and when he may not. Quod non eſt bonum, nunquam erit bonum*, that which is not innocent in it ſelf, can never be made ſo. But *vitia non ſunt quibus rectè uti licet*; if it can in any caſe become good, it is not of its own nature evil: ſo that if a lye be unjuſt, it can never become lawfull; but if it can be ſeparate from injuſtice, then it may be innocent. Here then I conſider,

Epiſt 8. ad Hieron.

Eurip. in Phœniſs. Laſtant. 6. inſtit. 16.

6. This right though it be regularly and commonly belonging to all men, yet it may be taken away by a Superior right ſupervening; or it may be loſt, or it may be hindred, or it may ceaſe upon a greater reaſon.

7. 1. Therefore upon this account it was lawful for the Children of *Iſrael* to borrow Jewels of the *Egyptians*, which ſuppoſes a promiſe of reſtitution, though they intended not to pay them back again: God gave them commandement ſo to ſpoil them, and the *Egyptians* were deveſted of their rights, and were to be us'd like enemies.

8. 2. It is lawful to tell a lie to children or to mad-men, becauſe they having no powers of judging, have no right to truth: but then the lie muſt be charitable and uſeful; becauſe they are defended by the laws from injury, and therefore muſt not have a lie told them that can doe them miſchief. So that if a lie be told it muſt be ſuch as is for their good; for though they have no right to truth, yet they have right to defence and immunity: and an injurious lie told to a child or mad-man is a ſin, not becauſe it deceives him, but becauſe it deceives him to his prejudice. *Quintilian* the great Maſter of children ſaies, *Utilitatis eorum gratiâ multa fingimus*, We feign many things to affright or allure Children to good, and from evil reſpectively. And ſo doe Phyſitians to their Patients, abuſing the fancies of hypochondriacal and diſordered perſons into a will of being cured. Some will doe nothing without a warrant; others are impatient of your converſe unleſs you ſeem to believe them: and Phyſicians can never apply their remedies, unleſs they pretend warrants, or compliances, and uſe little arts of wit and coſenage. This and the like were ſo uſual, ſo permitted to Phyſitians, that it grew to a Proverb, *Mentiris ut medicus*; which yet was alwaies to be underſtood in the way of charity, and with honour to the profeſſion. But this any Phyſitian may not doe, that is, not to every Patient: for if the man be wiſe and can chuſe and can conſider, he may not be coſen'd into his cure by the telling of a lie, becauſe he is capable of reaſon, & therefore may chuſe what he hath a mind to, and therefore to coſen him is to injure him; & no man muſt commit a ſin to doe a good turn to a man againſt his will. * And thus alſo in the caſe of Children: their Tutors or Parents may not tell them every lie; they may not teach them lies and make them confident in vanities; but for their good, govern them as they can be governed. *Ut puerorum ætas improvida ludificetur*, all the world conſents, when it is for their improvement. And to this is reduc'd the permiſſion of inventing a wittie fable, or telling a falſe ſtory, to gain ground upon

Lucret.

upon him that believes a falſe opinion, and cannot any other way ſo eaſily be confuted. Thus when two Eutychian Biſhops, who believing that the two natures of Chriſt made but one, did conſequently believe that the Divinity did die as well as the Humanity in the death of Chriſt, came to the Court of a *Saracen* Prince, he pretended great ſorrow and conſternation of mind at the receipt of ſome letters; into the contents whereof when they with ſome curioſity inquired, the Prince with a ſeeming great ſorrow told them he had receiv'd certain intelligence that the Archangel *Gabriel* was dead. They to comfort him told him certainly it could not be true; and for their parts they did believe it to be impoſſible. O Fathers, ſaid the Prince, you doe not believe it to be impoſſible that an Archangel ſhould, when you affirm that the Divinity did die. Such a fiction as this no wiſe man reproves; it is but like the ſuppoſing a falſe Propoſition in diſputation, that upon that falſe ſuppoſition a true Concluſion may be erected. Niceph. 18. c. 35.

9. 3. It is lawful to tell a lie to our neighbour by conſent, provided the end be innocent or pious. Thus S. *Chryſoſtom* and S. *Hierom* ſay that S. *Peter* ſuffer'd himſelf to be reprov'd by S. *Paul* before the *Gentiles* for too much compliance with the Jews: not that he did it ſeriouſly, but κατ' οἰκονομίαν, he acted a part by conſent to eſtabliſh Chriſtian liberty amongſt the *Gentiles*. I doe not conſent to the inſtance, becauſe S. *Paul* tels it to the *Galatians* as a ſolemn ſtory and a direct narrative, adding withall dogmatically, that S. *Peter was to be blam'd*: but the inſtance will ſerve rightly to illuſtrate this limitation of the Rule. But thus the parties in a warre may write exactly contrary to the truth; when they are underſtood to what purpoſe, and when it is by conſent. Becauſe he who hath the right to truth hath quitted it, and his communication does ſerve the ends of ſociety well enough, and his words, though they are not agreeable to his ordinary mind, yet they are made to be ſo by particular inſtitution and deſigne. Thus in beſieged places they write letters of confidence and great oſtentation of the ſtrengths which they have not; when their parties have conſented that they ſhould doe ſo for their juſt advantages.

10. 4. To tell a lie for charity, to ſave a mans life, the life of a friend, of a husband, of a Prince, of an uſeful and a publick perſon, hath not onely been done in all times, but commended by great and wiſe and good men. Οὐ νέμεσις ψεῦδος ὑπὲρ ψυχῆς ἀγορεύειν, *To tell a lie to ſave a life is no harm*, ſaid old *Piſander*. Thus the *Egyptian* midwives are commended becauſe by their lie they ſav'd the *Iſraelitiſh* infants. *O magnum humanitatis ingenium! O pium pro ſalute mendacium!* ſaies S. *Auſtin* of them: it was an excellent invention of kindneſs, and a pious lie for the ſafety of the innocents: and S. *Ambroſe* and S. *Jerome* commend them ſo, that they ſuppos'd them to receive eternal rewards. The ſame was the caſe of *Rahab*; to whom it ſhould ſeem that *Phinehas*, who was one of the ſpies, had given inſtruction and made in her fair diſpoſitions to tell a lie for their concealment. For when ſhe had hidden *Caleb*, *Phinehas* ſaid to her, *Ego ſum Sacerdos. Sacerdotes verò, quippe Angelorum ſimiles, ſi volunt, aſpectabiles ſunt; ſi nolunt, non cernuntur.* But ſhe made no uſe of that, but ſaid directly they were gone away. Concerning which lie of hers S. *Chryſoſtom* cries out, Ὦ καλοῦ ψεύδους, ὦ καλοῦ δόλου, ὃ προδιδόντος τὰ θεῖα, ἀλλὰ φυλάττοντος τὴν εὐσέβειαν, *O excellent lie! O worthy deceit of her that did not betray the Divine perſons, but did retain piety!* Thus we find Homil. 5. de pœnitent.

S. *Felix* telling a lie to ſave his life from the Heathen Inquiſitors.

Natali 5. S. Felicis.

Felicem ſitit impietas———
Felicemque rogant, Felix ubi cernitur: & non
Cernitur ipſe, nec ipſe vir eſt, cum ſit propè, longè eſt.
———perſenſit & ipſe faventis
Conſilium Chriſti, ridenſque rogantibus inſit,
Neſcio Felicem quem quaritis: ilicet illi
Prætereunt ipſum; diſcedit at ille plateâ,
Illudente canes Domino fruſtratus hiantes.

They ask'd where *Felix* was; himſelf anſwer'd, that he knew not *Felix* whom they look'd for: and yet no man finds fault with this eſcape. *Deceptio & mendacium ſemper aliàs mala res, tunc tantum ſunt uſui quando pro remedio ſunt amicis curandis, aut ad vitandum apud hoſtes periculum*; they are the words of *Celſus* in *Origen*. *A lie is otherwiſe evil, onely it is then uſeful when it is for remedy to cure the evils of our friends, or to avoid the evils from our enemies.* The ſame almoſt with the expreſſion of *Clemens Alexandrinus*, who allows ψεύδεσθαι ἐν θεραπείας μέρει, *to lie when it is a remedy*. So *Lucian* amongſt the Heathens, *Qui cum uſus poſtulat mentiuntur, veniâ nimirum hi, imò laude plerique eorum digni ſunt; quicunque vel hoſtes fefellerunt, vel ad ſalutem tali quopiam pharmaco uſi ſunt in neceſſitatibus: They are not onely to be excus'd or pardon'd, but to be commended, that lie, when they uſe it as a remedy or a medicine in the danger or neceſſities of our friends*; where alſo the Scholiaſt does allow an officious lie. So we muſt uſe a lie, ſaies *Caſſian*, *quaſi natura ei inſit hellebori*, as a man uſes hellebore: and he commends *Archebius* for deceiving ſome perſons with a charitable lie. It is therefore no wonder if *Pliny* commends *Arria* the wife of *Cæcinna Patus* for ſo often lying to her ſick husband in the concealment of the death of their beloved boy; which ſhe therefore hid leſt the grief ſhould extinguiſh her Husband. In ſhort, S. *Auſtin* ſaies that all the Philoſophers, as *Plato*, *Xenophon*, *Lucian*, the Lawyers, the Phyſicians, the Rhetoricians and Theologues did affirm that it was ſometimes lawful to tell a lie; that is, when it did good and no evil: Τὸ γὰρ ἀγαθὸν κρεῖττόν ἐστι τῆς ἀληθείας, ſaid *Proclus*, *For Charity is better then truth*, and to ſave a mans life is better then a true ſtory. The Archbiſhop of *Tyre* (as I remember) tells a ſtory, that a malicious *Saracen* had ſecretly defiled one of the Moſques or places of worſhip which the *Turks* have in *Jeruſalem*. The fact was imputed to the Chriſtians, who generally denying it, but having no credit with their enemies, were all preſently drag'd to the place of execution. Amongſt them there was a young man pious and noble, who ſeeing all his brethren in a ſad condition and himſelf equally involved, by an officious and a charitable lie took the fact upon himſelf, and confeſs'd himſelf alone to be the doer of it, and that the reſt knew nothing of it. Himſelf indeed was put to death with exquiſite torments, but he ſav'd the lives of all the reſt; who, I doubt not, believ'd that young man to have in heaven a great reward for his piety, and no reproof for his innocent and pious lie: for in memory of this noble act the Chriſtians in *Jeruſalem* once a year marched with palms in their hands into the City to perpetuate the memory of that deliverance.

In Philopſeu.

Lib. 5. Conſtit. cap. 37.

Lib. 3. Epiſt. 16.

Quæſt. 68. in Levit.

11. 5. Now this may be better admitted in caſe the charitable lye be told to him to whom the good accrues; for then there is a leave juſtly preſumed, and he that receives the good is willing to receive it with the loſs of

of an uſeleſs or hurtfull truth, and therefore there is no injuſtice done: as he that takes his neighbour's goods, for which he hath reaſon to believe his neighbour willing, is no thief, nor the other a deceiver. Ἀπατᾷ μέν, ἀπατεὼν δ' οὐκ ἔστιν· ὁ γὰρ πλησίον ἔχει τὴν ἀπάτην τοῦ νοσοῦντος, ἀλλὰ τὴν σωτηρίαν, ſayes *Andronicus Rhodius*, *He does indeed deceive, but he is no deceiver; becauſe not the coſening but the curing of his friend is the purpoſe of his falſe affirmative.* And to this we ſuppoſe that every man is willing enough, and therefore not at all injur'd. And this reaſon was good in ſuch charitable deceptions which are by implicit conſent or leave juſtly preſumed: ſo *Darius Hyſtaſpes* in *Herodotus*, *Ubi expedit mendacium dicere, dicatur: nam idem optamus, & qui mendacium dicimus, & qui veritatem.* Every man is willing enough to be deceived into his own advantage; and therefore when it is ſo, in ſuch things where the man is willing to receive advantage, there is no harm done, if he be deceiv'd that he may not be undone. He that is in danger of drowning is willing enough to be pull'd out of the water, though by the ears, or the hair of his head; and we have reaſon to believe ſo in the preſent affair. *Mendacium nemini noxium, ſed alicui commodum, honeſtum eſſe*, ſaid Biſhop *Heliodorus* in his Fair Ethiopian. He was indeed then writing a Romance, by which he intended to doe good and no harm, and therefore believ'd himſelf innocent. Upon this account the Apologues or Fables of *Æſop*, the Parables of wiſe men, and their dark ſayings, the caſes which Lawyers put, and the fictions of law, have their juſtification, *Et prodeſſe ſolent, & delectare*——They hurt no man, and doe good to every man; they doe him profit, and they doe him pleaſure.

Exit in immenſum fœcunda licentia vatum,
Obligat hiſtoricâ nec ſua verba fide. Ovid. 3. Eleg.

Poets doe intend to teach, not to deceive, in their fictions, and therefore are allowed.

12. 6. But if the lye be told to another for the preſervation not of himſelf, but of a third perſon, then the caſe is more difficult, for here is no preſumptive leave, but it is againſt the mind of the inquirer. Now concerning this, though it be allowed by very many of the antient Doctours of the Church, and by the wiſeſt amongſt the Heathens, and hath in it a very great charity; yet I cannot ſee ſufficient cauſe to allow it.

Καλὸν μὲν οὐκ ἔστι τὰ ψεύδη λέγειν· Sophocl. in Creuſa.
Ὅταν δὲ ὄλεθρον δεινὸν ἡ ἀλήθεια ἄγει,
Συγγνωστὸν εἰπεῖν ἔστι, κοὐ τὸ μὴ καλόν.

It is at no hand good to tell a lye: but when a truth brings an intolerable evil, it is pardonable, but not commendable; ſo the Greek Tragedy: becauſe it is of it ſelf evil to lye to our neighbour. Not that every falſe propoſition ſpoken knowingly is a ſin; but if it be ſpoken to deceive, and not to profit, it is ſpoken to the injury of him that hears, and is a ſin becauſe it is unjuſt, and therefore not to be done for any good; and it is in this very inſtance in which S. *Paul* was angry at them who intimated that he told a lye for a good end: it may not be done, when to doe it is unjuſt or injurious. I approve therefore the opinion of S. *Auſtin*, I am ſure it was one of his opinions, for in this queſtion he had more then one; *Duo* Cauſ. 22. qu. 2. c. Nequis. *ſunt genera mendaciorum in quibus non eſt magna culpa, ſed tamen non ſunt ſine culpa, There are two ſorts of lyes which have in them no great fault, but yet they are not innocent: the one is to lye in jeſt; which is therefore not pernicious, becauſe it does not deceive, for it is taken but for a jeſt: the other is to*

lye for the good of our neighbour; which therefore is the leſs, becauſe it hath ſome-
Lib. de pudicit. *thing in it of good will.* And *Tertullian* is of the ſame opinion, who reckons this of *neceſſitate mentiri*, to lye in the time of need, amongſt the ſins of daily incurſion, or of an unavoidable infirmity. And S. *Auſtin* diſcourſes it
De mendacio, ad Conſentium. very well; *When it is ask'd whether a good man may lye or no, we ask not after him that belongs to* Egypt, *to* Jericho, *or to* Babylon, *or to the earthly* Jeruſalem *which is in bondage with her children: but what is his office that belongs to the Mother of us all, that City that is from above? and then we anſwer, that no lye is of the truth: but concerning the Citizens of this City it is written, that a lye was not found in their mouths.* So that upon this account all thoſe examples recorded in Scripture of great perſons telling a lye in the time of the danger of themſelves or others is no warrant, no argument of the lawfulneſs of it; for they were under a looſer law, but we under a more perfect and more excellent: and yet they did not doe well, and if we imitate them we doe worſe.

13. And therefore we find great examples of Chriſtians and of Heathens, whoſe Charity was not cold, but their love of truth and righteouſneſs was
Lib. de mendac. cap. 13. much warmer then in the former examples. S. *Auſtin* tels of *Firmus* Biſhop of *Tagaſta*, that when one who by evil chance had kill'd a man fled to him to be conceal'd from the avengers of blood; to the inquirers he anſwer'd, *Nec mentiri ſe poſſe, nec hominem prodere*, He could neither lye, nor yet betray the man. For which anſwer and refuſal the Biſhop being brought before the Emperour, as a reward both of his charity and his truth, he obtain'd pardon for the man. And it was a great thing which *Probus* tels of *Epaminondas*, and *Plutarch* of *Ariſtides*, that they were ſo great and ſevere lovers of truth, that they would not lye ſo much as in jeſt. Indeed that was very well: and it is of greater obligation to Chriſtians, to whom not onely purity and ſimplicity, ingenuity and ſincerity is commanded, but all vain talking is forbidden. But the caſe is not ſo clear in the matter of difference, when it happens between a great charity and an unconcerning truth. For who would not ſave his Father's life, or the life of his King, or of a good Biſhop and a Guide of Souls, at the charge of a harmleſs lye, from the rage of Perſecutors and Tyrants? God indeed in his providence hath ſo order'd the affairs of the world, that theſe caſes ſeldome happen: but when any man is ſurpris'd or tried, unleſs he be ſure that it is in that caſe a ſin to tell a lye, he may be ſure it is a very great ſin to betray his Prince or Prelate, his Father or his Friend. Every man in that caſe would diſpute hardly, rather then give up a good man to death. And if it be come to a diſpute, and that it be doubtfull on either hand whether the lye in that caſe, or whether the betraying the man to death, be the ſin, it is the ſafer way to determine for the charity then for the veracity; becauſe in caſe it be a ſin to give him up, it is much a greater ſin then to tell ſuch a lye: and then comes in the rule, *Caret peccato quod ex duobus minus eſt.* The lye is the leſs evil, and therefore it is no ſin when it is choſen to avoid that which for ought we know is the greater. But this is upon ſuppoſition that the caſe is doubtfull. * To which alſo muſt be added, that it muſt alſo ſuppoſe that it is juſt to ſave the man, or that we think it ſo: for to reſcue a Malefactor, a *Bandito*, a Fugitive of law, hath in it no ſuch obligation. But if it be juſt that the man be ſav'd, *that* is a higher juſtice then the obligation of telling truth to the Perſecutor; to whom it is as great charity, if from him we take the power of doing evil, as it is juſtice to reſcue the innocent.

innocent. Now this, and the opinion of ſo many great men that allow it, and the favourable nature of the caſe, is enough at leaſt to make this matter probable; and if there be a doubt, it is enough to eſtabliſh it: the queſtion being uncertain, is enough to make the practice certain.

And indeed if we conſider things without the prejudice of eaſy and popular opinions, though it be ſaid, that to tell truth is an act of juſtice; yet this is not true in all propoſitions, but in ſuch truths onely which concern a man for ſome real good to him, or for ſome imaginary good which hath no real evil. But when the telling of a truth will certainly be the cauſe of evil to a man, though he have right to truth, yet it muſt not be given to him to his harm: it is like the giving to a mad-man his own ſword; you had better give him a wooden dagger, though the other be his own. But in an unconcerning truth what intereſt can any man have that is worth preſerving? What wrong is done to me if I be told that *Alexander* dyed upon the floor, and not upon a feather-bed? or that *Pittacus* his wife hurt her fingers when ſhe threw down the table of meat before her husband's friends? Truth is juſtice when it does good, when it ſerves the end of wiſedome, or advantage, or real pleaſure, or ſomething that ought or may be deſir'd; and every truth is no more juſtice, then every reſtitution of a ſtraw to the right owner is a duty. *Be not over-righteous*, ſayes *Salomon*. In theſe things there is no queſtion but the pretences of little juſtice *ought to ſerve the great end of charity*; and much rather if the truth will doe no good, and will doe hurt to him that inquires, and more to him who is inquir'd after. The Perſecutor hath a right to truth, but no right to be undone; and therefore he is not wrong'd by that lye that ſaves him harmleſs in ſome meaſure, and his brother in more; and if he be not wrong'd, then no man is: and then the lye that ſo well ſerves Charity, is not againſt Juſtice; and unleſs every lye be intrinſecally evil and malicious, it hath in ſuch caſes no irregularity. And if it be objected, that we muſt not tell a lye for God, therefore much leſs for our Brother; I anſwer, that it does not follow: for God needs not a lye, but our Brother does: and beſides this, there can no ſervice be pretended to be done to God by a lye, but it muſt be in the matter of juſtice or religion, in both which caſes a lye is neither to be told for God nor our Brother; but a real ſervice may be done for our Brother by ſuch a lye as ſins neither againſt juſtice nor religion; in which caſe onely I ſay it may ſeem to be allowable.

14. But then from theſe premiſſes the truth in the inſtance of the Rule is eſtabliſhed; for it is not lawfull for a guilty priſoner to ſay *Not guilty*, when he is juſtly interrogated. *Chriſtianum non mentiri etiamſi moriatur ex tormentis*, ſaid *Clemens Alexandrinus*, A Chriſtian will not lye, though to eſcape death with torments: For the law ſayes, *Thou ſhalt not kill*; and Num. 16. the law ſayes, *Thou ſhalt not lye*: but the law it ſelf does ſometimes kill, but the law does never lye. For although it be ſaid, that no man is bound to accuſe himſelf, and indeed the laws of man doe not tie him to doe it: yet this hinders not the concluſion in this caſe, for in the preſent caſe the man is accuſed already, and he is not called to be his own accuſer, but to confeſs the fact if he be juſtly accuſed by the law: for why does the Judge ask, but to be anſwer'd truly? For there being three wayes in law of proceeding to definitive ſentence, 1. *the notoreity of the fact*, 2. *the conviction by witneſſes*, and 3. *the confeſſion of the party*; in the deſtitution of the *firſt*, to prevent the trouble of the *ſecond*, the law interrogates con-

cerning the *third*; and it is as in the case of *Joshuah* and *Achan*, *My son, give glory unto the Lord, and confess thy fault.* It is true, it is a favourable case; and when a mans life is at stake, he hath brought himself into an evil necessity: but there is no excusing of a false denial, but it is certainly Criminal, and nothing can excuse it, unless the law should give leave to such persons to say what they would, which cannot be suppos'd in any good Government; for then trials of Criminal causes between the Judge and the Thief would be like a match at fencing, and it is infinitely confuted by those laws which use to examine by scourgings or torture; which whether it be lawfull or unlawfull, I doe not here determine, but I affirm to be a great testimony, that laws doe not love to be played withall, but when they ask soberly, intend to be answered truly.

This is also to be extended to the case of Advocates, who in a good cause must not use evil arts. For we must not tell a lie for God, and therefore not for the interest of any moral vertue, nor for the defence of righteousness; for a cavil or an injurious lie is out of the way to justice, and she must not be directly wronged that she may be indirectly righted. In the civil law it is permitted, that to avoid abuses and the injurious craft of the opposite party, the advocate of the right may use all arts that are not lies and falsity; *Nec videtur dolo feciſſe qui fraudem excluſerit*, saies the law, l. *Compater*, § *Titio*, ff. *de legat. ſecundo.* He may be overthrown by art, so he be not by that which is false: *ſic ars deluditur arte.* But in the case which the lawyers out of *Baldus* put, the question is evident. *Agricola* borrows of *Sempronius* five hundred pounds, and pays him at the day, but without witness: *Sempronius* sues him for the money: *Agricola* owes him none, but cannot prove the payment; but yet may not when he is particularly interrogated, to save himself from injury, deny that ever he received any. He must confess the truth, though he pay the money again. *Covarruvias* affirms that he may in this case lawfully deny that ever he received any; because he is not indebted, he received none that remains in his hand: and to other purposes the Judge cannot question him; and if he does he is unjust, and therefore *Agricola* is not tied to answer rightly. But this is not well said nor well considered. For the Judge being competent may require him to answer; and the intention of the question is not to know whether *Agricola* have paid the money yea or no; but whether he borrowed it. For if he did, the Judge is afterward to inquire concerning the payment: and as *Sempronius* was tied to prove *that*, so is *Agricola* tied to prove *this*; and a lie is not to be confuted by a lie, nor the error of *Agricola* in not taking witnesses or an acquittance to be supplied by a direct denial of a truth. * But if *Sempronius* have lent *Agricola* 500 li. whereof he hath received 200 li. if the Judge aske whether he ows him that sum which *Sempronius* demands, he may indefinitely and without more punctuality deny the debt, that is, of 500 li. saying that he owes it not: and if the law be such that the confession of one part intitles him to the whole, he may deny the whole to be due, in case he have paid a part. But with these two Cautions, 1. That if he be ask'd concerning a part, he answer to that as justly as he answers to the whole: 2. That he do not make use of this subterfuge to defraud *Sempronius* of what is due debt, but only to defend himself from the undue demand. These cautions being observed, he hath liberty so to defend his cause, because *majori ſummæ negative prolatæ minorem nec naturaliter nec civiliter ineſſe*, say the lawyers. A man by denying the whole does not deny the part, though he that affirms the whole

whole affirms the part; and therefore this defence is juſt becauſe it is true. * But now if in a juſt cauſe the Advocate or party may not tell a lie; I conclude that *much leſs* may he doe it in an unjuſt cauſe, and for the defence of wrong. But [*much leſs*] ſignifies nothing, for it may not at all be done in either; and in pure, perfect negatives there can be no degrees. But in artifices and crafty entercourſes there is ſome difference; theſe may be uſed to defend a juſt cauſe that can no other way be defended; but they may not be uſed to promote an evil cauſe; becauſe they of themſelves though they be indifferent, yet not ſerving a good end but an evil, do therefore become evil. And therefore the Greek that denyed the *depoſitum* of his friend, and offered to ſwear at the Altar that he had reſtor'd it already, did not preſerve his conſcience and his oath by deſiring his friend to hold the ſtaffe in which he had ſecretly conveyed the money. It is true, he delivered it into his hand, deſiring that he would hold it till he had ſworn; but that artifice was a plain coſenage, and it was prettily diſcovered: For the injur'd perſon in indignation at the perjury ſmote the ſtaff upon the ground, and broke it, and eſpied the money. But that made all right indeed, though againſt the intention of the perjurer. Such like arts as theſe muſt not be us'd to doe a miſchief: if they doe charity and juſtice, if they have not ſomething to legitimate them, they have very much to excuſe them.

15. 7. It is lawfull to doe otherwiſe then we have ſaid, when the doing is better then the ſaying: if the ſaying were ill, there is no ſcruple of it; for it ought not to be done, but the ſaying is to be repented of: not that the ſaying was a lie, for there is no way of making it good but by cauſing it to paſs into a lie, that is, into vanity and nothing. But then, if the ſaying be leſs good, and the deed be contrary, and yet much better, the truth is not ſo much as the bounty; and there is no injuſtice in the lie, becauſe there is charity in the action, and a ſufficient leave preſum'd to be given by him that is concerned. Thus the Emperor that ſaid he would cut off every one that piſſed againſt the wall, being afterwards appeaſed and perſwaded to mercy towards them that had done amiſs, he expounded his words concerning dogs, and cauſed all the dogs in the Town to be kill'd. No man here was injur'd; and it had been an importune adhering to a truth, and a cruel verification of his word, to have prefer'd his word before the lives of ſo many Citizens.

16. 8. It is not lawfull to tell a lie to ſave our fame; but we muſt rather accuſe our ſelves then tell a lie, or commit any other ſin. *Nemo tenetur infamare ſe*, is a rule univerſally admitted amongſt the Caſuiſts, *No man is bound to diſcover his own ſhame*. And upon this account they give leave to men to hide their ſin, to leave their repentance imperfect, to tell a lie, to hazard the not doing of a known duty, to injure innocent perſons. Thus when a man hath ſtolen goods, he is bound to reſtore, but not if it cannot be done without diſcovering his perſon, becauſe no man is bound to diſgrace himſelf. If an adultereſs hath ſome children by her husband, others ſecretly by a ſtranger, ſhe is bound not to ſuffer the legitimate to be injur'd by proviſions for the other: this is true: but if ſhe cannot prevent the injury to the legitimate without diſcovering her ſelf to her husband, *Non tenetur*, *She is not bound* to defame ſelf. If her husband examine her concerning it, ſhe may hold her peace: but if that increaſes the ſuſpicion, ſhe

hath no way to eſcape but by denying it; for ſhe is not oblig'd to betray or accuſe her ſelf. This is the doctrine of the Canoniſts and Maſters of Conſcience in the Church of Rome, which (as yet) are almoſt all that have written upon Caſes. *Navarre* is the man whom I chuſe for all the reſt. *Nemo tenetur reſtituere cum periculo famæ conſequentis virtutem moralem vel theologicam; non famæ partæ in aliis rebus præclaris, ut ingenio, divitiis, No man is bound to make reſtitution with the hazard of his fame conſequent to a moral or theological vertue*; that is, if it will make him ſuſpected not to be a good man: but if it will only hinder or hazard his reputation of wiſdome or wealth or any thing of theſe natures, it hinders not. And again in the caſe of an adultereſs, *Peccavit, ſed poteſt abſolvi, licet taceat, & noceat patri putativo & hæredibus, quando timetur mors, vel amiſſio famæ*, &c. *She hath ſinn'd, but ſhe may be abſolved, though ſhe hold her peace, and be injurious to the ſuppoſed Father, and wrong the heires*; *that is, if ſhe be in peril of her life, or fears the loſs of her fame. To ſave a mans credit, an honeſt man, to whom it would be a great ſhame to begg, videtur poſſe clancu-lum neceſſaria ſurripere, may privately ſteale neceſſaries.* So *Diana*. And if ſo, I do not doubt but he may alſo lie, and deny it to ſave his credit, if he be asked uncivilly concerning it. But this alſo the Doctors expreſly affirm, that if *Titius* have diſgrac'd *Caius* by puniſhing his ſecret ſhame to defame him, he is bound to make reſtitution of his good name, by denying what he ſaid, that is, by telling of a lie, or by mental reſervation; and that's all one, as I ſhall prove in the ſequel. So *Emonerius*. Againſt theſe prodigies of doctrine I intend this paragraph. We muſt not commit a ſin to ſave our life, much leſſe to ſave our fame; and indeed nothing does more deſerve infamy then to tell a lie, nothing diſgraces a man more: and if a lie be an injuſtice, then no end can ſave it harmeleſs.

Habetur in compendio Navarri per Petr. Guivar. edit. Antverp. 1595. pag. 93.

Pagina 82.

Vide Compen. impreſſ. Lugd. 1641. pag. 335.

17. But then concerning our fame, we muſt rather let it goe, then let our duty goe. For though our fame is a tender part, and very valuable, yet our duty is more: although our fame is neceſſary for others, yet a good conſcience is neceſſary to our ſelves: and he is cruel that neglects his own fame; but he is more cruel that neglects his own ſoul: and therefore we may expoſe our good name to goe as God ſhall pleaſe, 1. When we ask counſel and remedy for our ſoul. 2. To avoid the ſin of pride, and puniſh the vanities of our ſpirit. 3. To exerciſe and increaſe the grace of humility. 4. In humiliation and penance for our ſins, when our fame is not neceſſary to others, that is, when we are not eminent and publick perſons. 5. When we are tied to any expreſs duty which is indiſpenſably neceſſary, as reſtitution of fame or goods, and yet cannot be done without the publication of our perſon and our ſhame. 6. When for our own greater good or for the publick intereſt we are commanded by a juſt and competent authority. 7. And laſtly, When we muſt either confeſs our ſin or tell a lie, which is the thing now in queſtion; for we muſt rather ſuffer ſhame then doe things worthy of ſhame, rather be aſhamed before men then be aſhamed before God, that is, rather be diſgrac'd then damn'd: for nothing needs a lie but a ſin to hide it, and by a lie a ſin is made two.

S. Aug. lib. de bono viduit. cap. 22.

18. 9. It is not lawfull to tell a lie in humility, or the confeſſion of ſins and accuſation of our ſelves. *Cum humilitatis causâ mentiris, ſi non eras peccator antequam mentireris, mentiendo efficeris quod evitâras*, ſaid S. *Auſtin*. He that lies in humility, and calls himſelf a ſinner in that wherein he was innocent,

De verbi Apoſt.

innocent, hath made himself a sinner by his lying. And this was it which Abbat *Zozimus* wittily and piously replied; For when he said he was the greatest sinner, and the vilest of men, to him that reprov'd him for saying so, and telling him that it was not truly said of him, because every one knew he serv'd God with great diligence and great sincerity, and therefore he ought to speak more truly of himself and more thankfully of God; *Zozimus* replied, You say very well, I ought to speak truth of my self & thankfully of God; but I am false and unthankful, but therefore I did say true, and not unthankfully. But we have truth enough to say of our selves to make us humble without saying what is false. Ὁ δὲ ἐνόν ἀνύπαλιν, ἀρνεῖσθαι τὰ ὑπάρχοντα, ἢ ἐλάττω ποιεῖν, saies *Aristotle*; *to deny the good things that are in us, or to make them less, is dissembling.* All pride is a lie; but humility is truth: and therefore it is but a dissembling humility that lives upon the bread of deceit. *Synesius* Bp. of *Ptolemais* was a wise man and a great Philosopher. But when he was chosen Bishop he refus'd it passionately, & that his refusal might be accepted, declaim'd most bitterly against himself; that he was a man given to gaming, from which a Bishop should be free as God himself; that he did not believe that the world would ever perish; that he did not assent to the article of the resurrection of the dead; that being a Philosopher of the Stoical Sect, he was something given to lying; that he was not popular in his opinions, but humorous and morose, secret and resolute; that if he was forc'd to be a Bishop, he would then preach all his opinions. For all this *Theophilus* Bishop of *Alexandria* consecrated him Bishop, as knowing all this to be but stratagem and the arts of an odde phantastick humility. But it was ill done; and *Synesius* had this punishment for his lying modesty, that he was believ'd by posterity to be so heathenish and unworthy, that that Church chose him Bishop onely upon hopes he would mend. So *Evagrius* and *Nicephorus* report.

Dorotheus doctr. 2. n. 11.

Eth. lib. 4. c. 7.

Evagr. lib. 1. c. 15. hist. Niceph. lib. 14. c. 55.

19. 10. In a just warre it is lawful to deceive the unjust enemy, but not to lie; that is, by stratagems and semblances of motions, by amusements and intrigues of action, by ambushes and wit, by simulation or dissimulation,

Ἤ δόλῳ, ἢ βίᾳ, ἢ ἀμφαδὸν, ἢ κρυφηδὸν,

by force or craft, openly or secretly, any way that you can, unless you promise the contrary: for it is in open warre, if the warre be just, lawful to doe justice upon the enemy all the waies we can; *craft is but the facilitation of the force*; and when it is a state of warre, there is nothing else to be look'd for. But if there be a treaty, or a contract, a promise or an agreement in any thing, that is a state of peace so farre, and introduces a law; and then to tell a lie or to falsify does destroy peace and justice, and by breaking the law reduces things to the state of warre again.

Κρὴ δ' πάντ' ἐρέοντ' ἀμαυρῶσαι τὸ ἐχθρόν,

Pindar.

It is lawful to doe any thing to destroy your enemy; that is, so long as you profess hostility: and therefore if you tell a false tale to him to deceive him, when you are fighting against him, he is a fool if he believes you, for then you intend to destroy him; but you are not unjust, you are in a state of warre with him, and have no obligation upon you towards him. Thus *Elisha* told a lie to the *Syrian* army which came to apprehend him, *This is not the City, and this is not the way*: & this is approv'd and allowed by *Plato* and *Xenophon*, *Homer* and *Pindar*, *Polybius* and *Thucydides*, *Plutarch* and *Lucian* amongst the Greeks, *Philo* amongst the Jews; and S. *Chrysostom* amongst the Christians

2 Kings 6. 19.

Lib. 1. de Sacerdotio.

ans ſaies, *If you examine all the braveſt Generals, you ſhall find their braveſt trophies to be the production of fraud and craft,* ἢ μᾶλλον τύτυς ἐπαινομένυς ἢ τυς φανερῶς κρατυῦντας, *and that they were more commended then ſuch who did their work by fine force.* Thus the cauſing falſe rumors to be ſpread amongſt the enemies is an allowed ſtratagem in warre, neither ignoble nor unjuſt. *Flaccus* told that *Æmilius* had taken the enemies town, to diſhearten the party he fought againſt: and *Quinctius* the Conſul caus'd it to be ſpread abroad that the enemies on the right wing were fled. By ſuch arts it is very uſual to bring conſternation to the hoſtile party: and he whom you may lawfully kill, you may as well deceive him into it, as force him into it; you being no more oblig'd to tell him truth then to ſpare his life: for certainly of it ſelf killing is as bad as lying; but when you have no obligation or law to the contrary, and have not bound your ſelf to the contrary, you may doe either. But this is at no hand to be done in matters of treaty or promiſe, either explicite or implicite, as in parties, and truces; and therefore it was a foul ſtain upon *Hannibal*, that he profeſſing open warre againſt the *Romans* did alſo profeſs it againſt faith and juſtice, keeping no word or promiſe if it was for his advantage to break it; and the *Trojans* were troubled in conſcience at their fallacious conducting of their warrs, not by ſtratagem, but by breaking their oaths and Covenants,

Livius l. 3. 29.

Valer. Max.

Iliad. 8.

——νῶϊ δ' ὅρκια πιστὰ
Ψευσάμενοι μαχόμεσθα, τῷ ὔ νύ τι κέρδιον ἡμῖν, &c.

We fight with lying and breaking promiſes, which is unlawful to doe. For concerning this thing, that even in warre we are bound to keep faith & promiſe made to our enemies, it is certain & affirmed by almoſt all wiſe & good men of the world: *Liquet etiam in bello fidem & juſtitiam ſervari oportere, nec ullum decorum oportere ſervari, ſi violetur fides*, ſaid S. *Ambroſe*; and he proves it by the example of *Joſhuah*, who kept his promiſe which the *Gibeonites* got fraudulently from him. And the ſame is the ſentence of S. *Auſtin*; *Fides quando promittitur, etiam hoſti ſervanda eſt, contra quem bellum geritur:* and therefore when *Nebuchadnezzar* had conquered *Zedechiah*, and taken him into protection and peace upon his word and promiſe of fidelity, becauſe he afterwards did privately ſollicite the King of *Egypt* to fight againſt the King, he was put to death with greateſt cruelty. And this is not onely true between thoſe who are publick enemies, forreiners and ſtrangers, and ſupreme in their reſpective dominions, which the law properly ſignifies under the word *Hoſtes*, *l. quos nos, ff. de verborum ſignif.* for this is without queſtion; and therefore all men condemn thoſe that violate Embaſſadors, or that break the laws of truce; and every one blames *Titus Labienus* for wounding *Commius* of *Arras* under the colour of parlee: but *Attilius Regulus* is commended for refuſing to give his voice in the Senate ſo long as he was not diſcharged of his oath made to the *Carthaginians*. But this is alſo true, and our word and faith is ſacred, when it is paſs'd to all ſorts of enemies, to Rebels, to Thieves, to civil Adverſaries, to condemned perſons, to Fugitive ſervants, ſuch as *Spartacus*, *Eunus* and *Athenio*; and the reaſon of all is the ſame. *Inter quos juris alicujus communio eſt, inter eos obligationem contrahi, They that are under the ſame law are equally bound*; and whoever promiſe or treat, doe it at leaſt by the law of Nature or Nations, which alike bind them who are free from any civil obligation. This is that which *Triphoninus* ſaid, That if a thief intruſts any goods to the right owner, not knowing that they are his own, he is not oblig'd to reſtitution; but every man elſe is, if he have promis'd, becauſe they are

De offic. l. 1. c. 29.

Epiſt. 1. ad Bonifac.

Hirtius, Bell. Gallic. 8. c. 3. Cicero, lib. 3. Offic.

none

none of his, and therefore he can be oblig'd to repay them: and for thieves and fugitives the people of *Rome* did treat with them, and ſend Embaſſadors; and all that was bound upon them by that entercourſe they kept religiouſly. And the ſame they did to condemned perſons; as appears in that famous caſe of *Caius Rabirius*, who was queſtion'd for killing *L. Apuleius Saturninus* againſt the publick faith given him by the people, when he and his companions fled to the Capitol for immunity and a guard againſt the ſentence of death which he had deſerv'd. Vide Orat. Cicer pro C. Rabirio. Appian. bel. Civil. 1.

But all this is to be underſtood ſo, that the faith and word be given by him who hath power to verify it: but when *A. Albinus* made a peace with King *Jugurtha*, for which he had no commiſſion, the Senate was not oblig'd to verify it; and *Camillus* the Dictator broke the peace which the *Romans* had fooliſhly made with the *Gaules*; and *Scipio* diſſolv'd the contract which *Maſiniſſa* and *Sophonisba* made without his leave, who had the power. In this there is onely caution to be had that there be no combination to deceive or reſcind what is found to be diſadvantageous, nor advantages taken by the change of hands. For if the *Romans* finding relief come, made *Camillus Dictator* that they might by pretence of his command break the peace, they did diſhonourably and falſe; but if he was *Dictator* before the peace, he had power, and he had reaſon. To this can be referr'd the caſe of two Italian Gentlemen. *Guarino* had injur'd *Antonio de Imola*; but confeſs'd his fault, ask'd pardon, made amends: and then *Antonio* ſwore his peace and his forgiveneſs, and that his hand ſhould never be upon him; but in his heart bore him a ſecret grudge, and therefore ſmote him ſecretly, ſaying that *Guarino* was a *Bandito*, and therefore condemn'd by the laws. This is to make our promiſe the cover of a lie, and the laws to miniſter to crafty miſchiefs. After a promiſe a man muſt not change his mind, and then make excuſes. *Renunciatio ſui juris per pœnitentiam revocari non poteſt*, ſaith the law, *l. pactum, ff. de pact.*

But deceiving the enemy by the ſtratagem of actions or words is not properly lying; for this ſuppoſes a converſation of law or peace, truſt or promiſe explicite or implicite. A lie is the deceiving of a truſt or confidence, but in fighting there is none of that; it is like wraſtling and fencing, a deſign to make that part unarm'd where he may ſtrike the ſurer: and of this S. *Clemens of Alexandria* affirms expreſsly concerning ſtratagems in warre, *Hæc omnia licebit efficere, vel perſuadendo, vel cogendo, vel injuriam faciendo in iis ulciſcendis quibus expedit, vel faciendo id quod juſtum eſt, vel mentiendo, vel vera dicendo, vel etiam ſimul utendo aliquibus eorum in eodem tempore. All theſe things it is lawful to bring to paſs by perſwaſion, or by force, by doing injury or harm there where we are to doe revenge, by doing that which is juſt, or by telling that which is true, or by lying, or by doing any one or more of theſe together. Hæc autem omnia, & quomodo oporteat uti unoquoque eorum, cum Græci accepiſſent à Moyſe, non parvam accepere utilitatem; When the Greeks receiv'd all theſe things from Moyſes, and how they were to uſe any one and every one of theſe, they received no ſmall advantage.* Stromat. l. 1. c. 13.

20. In this caſe, all the prejudice which the Queſtion is like to have, is in the meaning and evill ſound of the word *lying*; which becauſe it is ſo hateful to God and man, caſts a cloud upon any thing that it comes near: but lying (which S. *Baſil* calls *extremam malitiæ lineam, the extremity of malice*, which S. *Ephrem* calls *the Ruſt of converſation*) is indeed an enemy; but in

in warre ſo it ſhould be; onely in peace and contracts, and civil converſation, it is intolerable. In warre it is no lie, but an engine of warre, againſt which the enemy is to ſtand upon his guard: and if a man may falſify a blow, much more may he falſify a word; and no juſtice, no promiſe, no charity, no law reſtrains the ſtratagems in a juſt warre; they which may be deſtroy'd, may be deceiv'd, and they may be deceiv'd by falſe actions, may by falſe words, if there be no collateral obligation or law to the contrary. *A juſt man*, ſaith S. *Auſtin*, is *to take care of nothing but that his warre be juſt*; that is, by a juſt authority, and for a juſt reaſon. *Cum autem juſtum bellum ſuſceperit, utrùm apertâ pugnâ, utrùm inſidiis vincat, nihil ad juſtitiam intereſt*, *But if it be a juſt warre, it matters not as to the queſtion of juſtice, whether he overcome by force or by deceit.* *Dolus & perfidia* are extremely different. *——dolus an virtus quis in hoſte requirat?* and, *bonum eſſe dolum ſi quis adverſus hoſtem latronemve machinetur*, ſaid *Ulpian*, Craft againſt a thief or enemy is good; but not perfidiouſneſs. *Nullo diſcrimine virtutis ac doli proſperos omnes laudari debere bellorum eventus*, ſaid *Ammianus Marcellinus*. To bring warre to a happy end, you may uſe force or wit; but at no hand break a promiſe, or be treacherous.

Qu. 10, & 11. in Joſue.

Virg.

L. 1. ff. de dolo malo.

Lib. 17.

21. He that deſires to ſee more particulars to the ſame purpoſe, may, if he pleaſe, ſee [a] *Lipſius* his politicks, and [b] *Adam Contzen*, together with the excellent examples of great and wiſe perſonages in *Polyænus* and *Frontinus*.

[a] 5 Politic. c. 17.
[b] Lib. 10. Pol. c. 38, & 46, 47.

11. But this is not to be extended to a licence of telling a lie of the enemy in behalf of our own country, for fame and reputation, for noiſes and triumph; and I remember that *Poggius* upon this account loſt the reputation of a good hiſtorian.

Dum patriam laudat, damnat dum Poggius hoſtem,
Nec malus eſt civis, nec bonus hiſtoricus.

Sanazar. 1. Epig.

He was a good Citizen, but an ill hiſtoriographer, that commended all the actions of the *Florentines*, and undervalued their enemies.

22. 12. Princes may not lie for the intereſts and advantages of Government. Not in contracts, treaties, bargains, embaſſies and all the entercourſes of peace and civil negotiation. For beſides it is an argument of fear and infirmity to take ſanctuary in the little ſubterfuges of craft when they are beaten from their own proper ſtrengths, it is alſo a perfect deſtruction of government and the great bands of ſociety and civil entercourſe; and if they be us'd to fail, no man can be confident of that affirmative which ought to be venerable and ſacred up to the height of religion; and therefore the *Egyptian* law preſs'd this affair well, Let all that break their word and oaths die for it; becauſe they are loaden with a double iniquity, *& pietatem in Deos violant, & fidem inter homines tollunt, maximum vinculum ſocietatis*, *They deſtroy piety and reverence towards God, and faith amongſt men, which is the great ligature of ſociety.* And if Princes doe falſify their word and lie, their neighbours can have no entercourſe with them but by violence and warre, and their ſubjects none but fear and chance. For Princes to lie is the greateſt undecency in the world: and therefore *Diodorus Siculus* tells that the *Egyptian* Princes us'd to wear a golden chain mix'd and diſtinguiſh'd with curious ſtones, and they call'd it *Truth*; meaning that nothing was a greater ornament to a Prince, nothing ought to be more ſacred, or more remembred.

Lib. 2. Antiquit.

Bodinus

23. *Bodinus* ſaies otherwiſe, and that Princes and Judges have leave, becauſe ſometimes they have neceſſity to lie; and of the ſame opinion was *Plato*, provided it was done for the good of the people. But that which they mean is onely in affirmations and narratives, in adding confidences or producing fears, in making laws and eſtabliſhing religions; ſuch as was that of *Numa*, who when he had a mind to endear to the people thoſe good laws which he had made, ſaid that he receiv'd them from the Goddeſs *Ægeria*. This may be done againſt an enemy; and if it be for the good of the people, it hath in it charity and ſome ſhew of prudence, but not to the bravery and magnanimity of a Prince: but however it be in this, it can never be permitted to violate a promiſe or a treaty, nor yet to tell falſe in a treaty, for that is againſt peace and againſt juſtice. When there is in it no harm, but all good, as in order to perſwade the people to a duty, or to their benefit, they in matters of publick life being like children in the affairs of their private, that is, when their need and incapacity of being otherwiſe governed requires it, they may be us'd as they can, according to that of the *Perſians*, *Sapientes dicunt quod mendacium beneficium faciens melius eſt vero exitium parturiente, When a lie does charity, it is better then an uncharitable and pernicious truth:* alwaies ſuppoſing, that the lie which ſerves charity be not againſt juſtice; but when it is in treaties, there a lie does not onely diſgrace the ſincerity of the prince that treates, but is of it ſelf apt to hurt the other; and therefore at no hand to be admitted. Lib. 3. de rep.

24. The next inquiry is concerning perſons Criminal, and ſo for others in proportion.

Queſtion II.

Whether it be lawful to uſe reſtrictions and mental reſervations, ſo that what we utter is falſe, but joyned to ſomething within does integrate a truth, and make up a true anſwer.

25. To this I anſwer, That this hath no diſtinct conſideration of it's own; but whether a mental reſervation makes that to be true which would otherwiſe be a lie. For if it be ſtill a lie, a criminal perſon may no more ſpeak half truths then whole lies; for that which is but the half of a true propoſition, either ſignifies nothing, or is directly a lie. And upon this ſuppoſition, this queſtion is juſt to be governed by the meaſures of the firſt; and in the ſame caſes in which it is lawful to tell a lie, in the ſame caſes it is lawfull to uſe a mental reſervation: for that which is lawful without it, is alſo lawful with it; and the mental reſervation does not ſave it harmleſs, if it be ſtill a lie. That therefore is the queſtion, Whether he that ſpeaks a lie, and thinks the other part which makes it a true propoſition, ſpeaks truth yea or no.

26. The caſe is this. When *Campian* was taken in *England*, he gave out that his name was *Butler:* the Magiſtrate inquires, and is ſo anſwered: he gives him his oath, and he ſwears that his name is ſo; ſo much he ſaid: but he added withall to himſelf, ſecretly, [It is my name that I have borrowed, or my name for this time] But that was not the queſtion; for he was ask'd that he might be known, and he anſwer'd that he might not be known. And he might as well have ſaid, that is my name, and have added

in his thought, *not at all*, or, *Hoc eſt nomen meum*, and in mind have added, *falſum*; and then the caſe would have been too plain, and too contemptibly ridiculous: like the *Sycophant* in *Plautus*, *Advenio ex Selencia, Macedonia, Aſia atque Arabia:* this was a lye; but he turn'd aſide and ſpake ſoftly, *quas ego neque oculis neque pedibus unquam uſurpavi meis*, and ſo he made up the matter; but he was a lyar ſtill: for let the whole be true, yet he ſpeaks but half, and by that half deceives. All that he ſayes is a lye, for the contradictory of it is true; and it is concerning his *anſwer*, and the *ſaying*, that the queſtion is. It is not inquired whether the man think a lye, but whether he ſpeaks one; and not what it is to himſelf, for no man can lye to himſelf, but what this is to him that asks, for to him he lyes. And ſuppoſe a man ſhould write a propoſition, and think the reſt, to make it true, would not all the world ſay he wrote a lye? What it is in writing, it is in ſpeaking; that which he ſpeaks in the preſent caſe is a lye, and for that he is condemn'd. For if the words are a lye without a mental reſervation, then they are ſo with it; for this does not alter the words, nor the meaning of the words, nor the purpoſe of him that ſpeaks them.

27. And indeed this whole affair is infinitely unreaſonable; and the thinking one thing, and ſpeaking it otherwiſe, is ſo far from making it to be true, that therefore it is a lye, becauſe the words are not according to what is in our mind; and it is a perverting the very end and inſtitution of words, and evacuates the purpoſe of laws, and the end of oaths, making them not to be the end of queſtions, and the benefit of ſociety, and all humane intercourſe, and makes that none but fools can lye, none can lye but they which cannot diſſemble, that is, they which cannot think one thing and ſpeak another, they which cannot ſo much as think what is true, or what words would make it true. Certain it is, the Devil need not ever tell a lye, and yet ſerve all his ends. And beſides all this, ſuch a perſon gives the ſcandal of a lye, and produces the effect of a lye, and does intend the end of a lye, and it is the material part of a lye; onely what the man ows to juſtice, he payes with thinking.

28. But then I conſider further, If the words ſpoken be of themſelves a lye, and therefore he thinks it neceſſary by a ſecret ſupply of thought to new-mould it into truth; to what purpoſe is that done? that it may be no lye to himſelf? or that it may be no lye before him to whom he ſpeaks it? As for himſelf, he is not concerned in it, but onely that he ſpeak truth; but the other is: and if it be a lye without that ſupplement, (for therefore he ſupplyes it ſecretly) then till it be ſupplyed and made up to him before whom he ſpeaks it, it is a lye to him, to whom it ought to be a truth. If the man be bound to ſpeak truth to the Magiſtrate, let him doe it; but if he be not obliged, let him tell a direct lye, for this ſupplement is but a confeſſing in conſcience that it is a lye; and therefore there is no need of ſuch a diſſembling artifice; there is more ingenuity in ſaying that they are not tied to tell truth: but he that tels a lye, and by his mental reſervation ſayes he tels a truth, tels two lyes, one practical, and the other in theory; one to the Magiſtrate, and the other to himſelf.

29. I doe not ſay that in all caſes it is unlawfull to uſe mentall reſervations, even in craftineſs and eſcape. 1. S. *Gregory* hath a caſe in which he affirms

affirms it lawfull, *Tyrannorum verſutiam atque ſævitiam quandoque eſſe piâ fraude deludendam, & objicienda eis quæ credant, ut nocendi aditum non inveniant, To prevent and elude the craft and cruelty of Tyrants, they muſt ſometimes be deluded by a pious coſenage; and ſomething muſt be impos'd upon their credulity, that their wayes of miſchief may be obſtructed.* And then he addes, this is to be done ſo, *ut caveatur culpa mendacii; quod tunc bene perficitur, cum illud fit quod aſſeritur, ſed quod ſit ſic dicitur, ut celetur; quia ex parte dicitur, & ex parte reticetur:* when there is nothing told that is falſe, but yet the matter is hid, becauſe it is not all ſpoken. Indeed this is one kind of innocent doing it; but this is lawfull to be done without great neceſſity, even for a probable reaſon: it is nothing but a concealing of ſome part of the truth, and a diſcovery of another part, even of ſo much as will ſerve our turn. But Lib. 6. in 1 Reg. c. 3.

30. 2. Reſtrictions conditional are lawfull to be us'd in our entercourſes: that is, the affirmation or negation, the threatning or promiſing of a thing may be *cum tacita conditione*, with a condition concealed; when that concealment is not intended for a ſnare, but is κατ' οἰκονομίαν, unuſual diſpenſation, and is competently preſumed, ſuppoſed or underſtood. Thus God commanded *Jonah* to preach againſt *Nineveh*, *Yet fourty dayes and* Nineveh *ſhall be deſtroyed*; meaning, unleſs they did repent. Thus we may ſay, I will to morrow diſtribute my alms, and will give you a part, meaning, if you will come for it. So for affirmations; The Phyſician ſayes to his Patient, [you are but a dead man;] that is, unleſs ſome extraordinary bleſſing happen: [you are in no danger;] meaning, if you will uſe the remedies preſcribed. But in all theſe caſes the condition muſt not be inſolent, undiſcerned, contrary to reaſonable expectations, impoſſible, or next to impoſſible: for if it be ſuch which cannot be underſtood, the reſervation is a ſnare, and the whole entercourſe is a deception and a lye.

31. 3. If the reſervation be not purely mental, but is underſtood by accidents and circumſtances, it is lawfull. The Shepherd of *Cremona* that was ask'd concerning the Flock he kept, whether thoſe were his Sheep or no, anſwered confidently, that they were; meaning ſecretly, not his own poſſeſſion, but his own charge, and not his Neighbour *Morone*'s Flock. He ſaid true, though his thought made up the integrity of his true propoſition, becauſe it was not doubted, and he was not ask'd concerning the poſſeſſion, as not being a likely man to be ſo wealthy. So the guide whom you ask upon the road, tels, you cannot goe out of your way, meaning, if you follow your plain directions, and be not wilfull, or careleſs, or aſleep; and yet he ſayes truth, though he ſpeaks but half, becauſe he deceives none, and is underſtood by all. Thus the Prophet *Iſaiah* ſaid to *Hezekiah* when he was ſick, *Thou ſhalt dye and not live*; meaning, Iſa. 38. that the force of the diſeaſe is ſuch as to be mortal, and ſo it ſtands in the order of Nature: and when afterwards he brought a more comfortable meſſage, he was not thought a lyar in the firſt, becauſe they underſtood his meaning, and the caſe came to be alter'd upon a higher account.

32. 4. When things are true in ſeveral ſenſes, the not explicating in what ſenſe I mean the words is not a criminal reſervation. Thus our Bleſſed Saviour affirmed, that himſelf did not know the preciſe day when himſelf ſhould come to judge the World; that is, as S. *Auſtin*, and

Theophylact. in 24. Matth.

generally the Chriſtian Doctors ſay, as Man he did not know it, though being God he did know all things. But 1. this liberty is not to be us'd by inferiours, but by ſuperiours onely; 2. not by thoſe that are interrogated, but by them which ſpeak voluntarily; 3. not by thoſe which ſpeak of duty, but which ſpeak of grace and kindneſs: Becauſe *ſuperiours*, and the *voluntary ſpeakers*, and they which *out of kindneſs* ſpeak, are tied to no laws in this particular, but the meaſures of their own good will; and the degrees of their kindneſs, of their inſtruction, of their communication, are wholly arbitrary: but the inferiours, the examined, the ſpeakers out of duty and obligation, are tied to anſwer by other mens meaſures, by their exigencies, demands, underſtandings, and purpoſes; and therefore muſt not doe any thing whereby that truth which they have right and intereſt to enquire after, may be hindred. The concluſion is this, in the words of S. *Gregory*, *Sapientia juſtorum eſt, nil per oſtenſionem fingere, ſenſum verbis aperire, The wiſedome of juſt men is to make no pretences for deception, but by words to open the ſecret of their heart.*

Moral. lib. 10. c. 27.

Queſtion III.

33. *Whether it be lawfull to equivocate, or uſe words of doubtfull ſignification with a purpoſe to deceive, or knowing that they will deceive; and in what caſes it is ſo.*

34. To this I anſwer as to the former, Where it is lawfull to lye, it is lawfull to equivocate, which may be ſomething leſs then a plain lye: but where it is not permitted to tell a lye, there the equivocation muſt be innocent, that is, not deceiving, nor intended that it ſhould. And this is that which the Hebrews call, *corde & corde loqui*, to ſpeak diſſemblingly, *labiis doloſis, with lips of deceit.* For it is remarkable, that *corde & corde* ſignifies diligence and ſincerity, when it means work or labour; but it ſignifies falſhood and craft, when it means ſpeaking: for Nature hath given us two hands, and but one tongue; and therefore a duplicate in labour is a double diligence, but in talking it is but a double fraud. *Tacitus* obſerves of *Tiberius*, *Verba ejus obſcura, ſuſpenſa, perplexa, eluctantia, in ſpeciem compoſita, His words were obſcure, broken, interrupted, perplex and intricate, ſtriving and forc'd, and made for ſhew and pretences.* Now if by artifices you deceive him that truſts you, and whom you ought not to deceive, it is but a lye dreſs'd in another way, and it is all one: For *nec artificioſo ingenio, nec ſimplici verbo oportet decipere quenquam, quia quolibet artis modo mentiatur.* So that in ſolution of this queſtion we are onely to conſider what equivocal ſpeeches may be us'd, that is, which of them are no lyes: for the reſt, they are lawfull or unlawfull by the meaſures of the firſt queſtion; for ſometimes equivocation is a lye, and equally deſtructive of civil entercourſe. *Duplex reſponſio habet effectum ſimplicis ſilentii.* You had as good not ſpeak at all, as ſpeak equivocally; for a double ſpeech is as inſignificant as a ſingle ſilence.

S. Aug. de conflictu virt. & vitiorum.

35. 1. It is lawfull upon a juſt cauſe of great charity or neceſſity to uſe in our anſwers and entercourſes words of divers ſignification, *though it does* deceive him that asks. Thus *Titius* the Father of *Caius* hid his Father in a Tub, and to the Cut-throats that inquired for him to bloody purpoſes he anſwered *Patrem in doliolo latere:* now that did not only ſignifie

a little Tub, but a Hill near *Rome*, where the villains did ſuſpect him to be, and were ſo diverted. Thus we read of a Greek that in the like caſe hid his Brother under a wood-pile; and to the inquiſitors anſwered that he did lie hid ἐν τῇ ὕλῃ, ſomewhere *in the wood*. Now in theſe caſes where there is no obligation to tell the truth, any man may uſe the covers of truth; eſpecially when in this caſe it is not a lie: for an equivocation is like a dark-lanthorn; if I have juſt reaſon to hold the dark ſide to you, you are to look to it, not I. If Chriſtian ſimplicity be not concerned in it, nor any other grace indirectly, certain it is that truth is not concerned: For, *In ambiguo ſermone non utrumque dicimus, ſed duntaxat quod volumus*, ſaid *Paulus* the Lawyer, l. 3. ff. *de rebus dubiis*. Now that part of the ambiguity which I intend it in, is true, I would never elſe uſe that way to ſave my conſcience and to eſcape a lie; ſo that if nothing elſe be concerned, truth is ſafe. But then care alſo muſt be taken that he who hath right to be anſwered, be not defeated without his own fault. For,

36. 2. If I intend to deceive him, it muſt be ſuch a perſon whom I have power to deceive; ſome one that is a child, or a mad-man, or an incompetent perſon to judge for his own good, and one that no other way will be brought to doe himſelf good, one that is willing, or juſtly ſo preſumed. For unleſs I have power or right to deceive him, I muſt not intend to deceive him by any act of mine directly.

37. 3. If it be fit that he be deceived, though I have no right to doe it, let him deceive himſelf; it muſt be by his own act; to which I may indeed miniſter occaſion by any fair and innocent means. It is fit that he who by violence and injury intends to doe miſchief to innocent perſons, be hindred from it; and there is much good done if an innocent be reſcued, and no harm done to the Tyrant if he be diverted, and no wrong or injuſtice if he doe deceive himſelf. Thus if he runs into error by a juſt and prudent concealment of ſome truth; if he is apt to miſtake my words out of a known and by me obſerved weakneſs; if his malice is apt to make him turn all ambiguous words into his own ſenſe that will deceive him; if I know he will liſten to my whiſpers to another perſon, and watch my ſecret talk to others; I am not bound to ſay what will inform him, but what will become my entercourſe with the other: In all theſe and the like caſes, if I uſe my own liberty, I doe no man injury. I am not bound to ſpeak words of ſingle ſignification: if it be ſufficient to expreſs my meaning, if it be in the nature and uſe of the words apt to ſignifie my mind, and to ſpeak that which is true, let him that ſtands by look to it; I doe all that I am oblig'd to doe by the intereſt of juſtice and truth. For in theſe caſes, he that ſpeaks does but miniſter occaſion to him that is miſtaken; like him that repreſents artificial ſights before the eye, or as the rain-bow in the clouds is occaſion of a popular error that it is full of colours.

38. 4. But then this muſt be ſo us'd, that the amphibology or equivocation be not inſolent and ſtrange, but ſuch as is uſual in forms of witty ſpeech. For then he who uſes them does no more deceive his hearer, then he that ſpeaks obſcurely or profoundly is the cauſe of error in the ignorant people. Thus if *Caius* promiſe to pay to *Regulus* an hundred Attick drachmes; he is tied to doe it if he does owe it, elſe not: for if he owes none, he muſt pay none, and he did not promiſe to give him any

thing. For if a meaning be clearly contained in the word ſpoken, it may be made uſe of to any juſt and reaſonable advantage; eſpecially if that word ought or was likely to have been underſtood by the concerned hearer. But this may not be done in fraud and to the diminution of any mans rights. *Aſper* buyes corn and linnen of *Camillus* who is newly come from Egypt: they agree together that *Camillus* ſhall receive ten talents; but that he ſhall give him as a free gift halfe of it back again; and call the ten talents the juſt price, and the telling it a juſt ſolution. If *Aſper* ſells his linnen by the proportion of the great price told over, he is a Coſener; and uſes the words of *price*, and *payment*, and *gift*, fraudulently: the amphibologie might have been us'd to ends of juſtice and reaſon, but not of knavery and oppreſſion.

39. 5. And this muſt alſo be upon juſt cauſe. For if a Magiſtrate ſends to inquire for *Titius*, and the officers ask *an Titius ſit domi*, *if he be at home*: to him we may not anſwer, *Titius non eſt domi*, *he does not eat at home*; meaning the word *eſt* in a ſenſe leſs uſual, to deceive him in the more common, who ought not to be deceived at all: but to ſave a mans life from violence and injury it may be done. This way hath been ſometimes uſed to vile purpoſes. Thus *Cleomenes* having made truce with his Enemies for thirty daies, us'd to plunder his Country in the night; and *Labeo* having agreed to give up half his Navy to *Antiochus*, cut his ſhips in pieces and made them good for nothing. The like ſtories are told of *Alexander*, of the *Locrians*, of *Otho Moguntinus*. But it was a barbarous thing of *Pericles*, who promiſed ſafety to the Enemy if he would lay aſide his iron, that is, their arms, as all the world underſtood it, and as the nature of the thing did ſignifie: when he had done ſo he fell upon the whole body of them and cut them in pieces, ſhewing for his excuſe, the iron buttons that they had upon their Coats. Such frauds as theſe are intolerable in their event, and evil in their cauſe, and deteſted by all good and juſt men. To this purpoſe I remember a worthy ſtory told by *John Chokier*, of a Spaniſh Governour of a Town in Millain who kept a Noble perſon priſoner with hard uſage, and when his Lady came to petition for his liberty, promiſed to deliver her Husband to her if ſhe would let him lie with her. The poor woman being wearied with his temptation and the evil uſage of her Husband, conſents and ſuffers it. When the Governour had obtained his luſt, he would alſo ſatisfie his anger too; and kills her Huſband, and to verifie his promiſe, gives her Husband to the Lady, but newly murdered. The Lady complains of this, and tells her ſad ſtory to *Gonzaga* the Spaniſh General: he finds it to be truth, and made the Lady this amends. He commands the Governour to marry the Lady, that by his eſtate ſhe might be recompenced for the diſhonour: and then, the ſame day cauſes the Governour to looſe his head to pay for his diſhonourable falſhood and bloody lie. It was a juſtice worthy of a great Prince; and the reward was juſtly paied to ſuch a cruel equivocation. This was *ſubdolus congreſſus*, *a craftie treatie*, *quo nil turpius*, ſaid *Antoninus* the Emperor, *nothing is baſer and more diſhonourable then it*. Thus did *Darius* to the Noble *Oebaſus* the Father of three brave Sons, and *Xerxes* to *Pythius* the Father of five; they kill'd what they promiſed to leave with the Father, adding to their cruelty the reproach and ſcorn of coſenage. A man hath right to uſe what words he will according to the received uſe; but he muſt not uſe them to evil purpoſes: and a man may goe a little from the more common uſe

uſe to that which is rare, ſo it be within the ſignification of the word, provided there be juſt cauſe; that which hath good in it to ſome, and no injury to any.

40. 6. There is between lying and equivocation this only difference, that this may upon leſs neceſſity and upon more cauſes be permitted then lying. For provided that theſe meaſures now deſcribed, which are the negative meaſures of lying, be obſerved; if a man ſpeaks doubtfull words and intends them in a true ſenſe, he may uſe his liberty; alwayes provided that he uſe it with care, and to the reputation of Chriſtian ſimplicity. In arts and ſciences, in jeſt and entercourſes of wit, in trial of underſtandings and myſtical teachings, in prudent concealments and arts of ſecrecy, equivocal words may be us'd with more freedome. *Solvite Templum hoc*, ſaies Chriſt, *Diſſolve this Temple*, viz. of my body, *and I will raiſe it up in three daies.* So did that excellent Confeſſor in *Euſebius*, to *Firmilianus* asking of what Country he was, he anſwered, that *Jeruſalem* was his Country; *Seorſim apud animum ſuum ita Divinitus philoſophatus*, *privately in his mind ſpeaking Divine myſteries*, ſaies the Hiſtorian. This was well and innocent, becauſe an equivocal ſpeech hath a light ſide as well as a dark: it is true as well as falſe, and therefore it is in its own nature innocent; and is only changed into a fault, when it is againſt juſtice and charity, under which ſimplicity is to be plac'd. 8. l. Hiſt. c. 21.

41. Under theſe meaſures are to be reduced thoſe little equivocations which are us'd ſometimes in craft, but moſt commonly in wit; ſuch as are to anſwer by anagrams, ſo as to tell a true name but diſguis'd by tranſpoſition of letters and ſyllables, or to give the ſignification of a name in other words. Thus if a man whoſe name is *Dorotheus* calls himſelf *Theodorus*, for *Nicolaus*, *Laonicus*, for *Demonicus*, *Nicodemus*; it is an equivocation or an art of deception, but ſuch as may be legitimated by the cauſe: but if the inquiry be in a ſerious matter, the anſwer muſt be ſerious and material, true, and ſignificative to the purpoſes of law, and juſtice, and ſociety. And therefore if *Nicodemus* had been interrogated by *Pilate* in a ſerious cauſe, he might not have ſaid his name was *Demonicus*; and the reaſon is, becauſe he might not have concealed it. But when it is lawfull to conceal it if we can, this is a juſt way of doing it; for it is no lie in it ſelf, and can be made to doe or to miniſter to that good which is intended. Thus in the book of *Tobit* we find that the Angel *Raphael* called himſelf *Azarias* the ſon of *Ananias*, which indeed is the name of his office, or the *Rebus*, the meaning of his preſent imployment, that is, *Auxilium Domini*, *Filius nubis Domini*, *The aid of the Lord*, *Son of the Lords cloud*; meaning that he was ſent from the Lord in a cloud or diſguiſe to be an aid and a bleſſing to that religious family. And he that call'd *Arſinoe* Ἡραὶον *Juno's violet*, kept all the letters of the name right, and complemented the Lady ingeniouſly. But theſe are better effects of wit then miniſteries of juſtice; and therefore are not to be uſed but upon great reaſons, and by the former meaſures, when the matter is of concernment.

Queſtion IV.

42. *Whether it be lawful by falſe ſignes, by actions and pretences of actions, to deceive others for any good end: and in what caſes it is ſo.*

43. To this queſtion I anſwer in the words of *Aquinas*, becauſe they are reaſonable and pious, *Ad virtutem veritatis pertinet, ut quis talem ſe exhibeat exterius per ſigna exteriora qualis eſt; ea autem non ſolum ſunt verba, ſed etiam facta:* and a little after, *Non refert autem utrum aliquis mentiatur verbo, vel quocunque alio facto, It is all one if a man lies, whether it be by word or by deed.* A man may look a lie, and nod a lie, and ſmile a lie.

2. 2ae. q. 3. art. 1.

44. But in this there is ſome variety: For 1. all diſſembling from an evil principle and to evil purpoſes is criminal. For thus *Tertullian* declaims bitterly againſt thoſe Ladies *who* (ſaies he) *being taught by the Apoſtate Angels oculos circumducto nigrore fucare, & genas mendacio ruboris inficere, & mutare adulterinis coloribus crinem, & expugnare omnem oris & capitis veritatem, beſmear their eye-brows with a black ſemicircle, and ſtain their cheeks with a lying red, and change the colour of their hair into an adulterous pretence, and drive away all the ingenuity and truth of their faces.* And *Clemens Alexandrinus* is as ſevere againſt old men that with black-lead combes put a lie upon their heads; and ſo diſgrace their old age, which ought to be relied upon, believ'd and reverenc'd for truth. And it was well ſaid of *Archidamus* to a man of *Chios* who did ſtain his white hairs with black and the imagery of youth, the man *was hardly to be believ'd, when he had a lie in his heart, and bore a lie upon his head.* Theſe things proceeding from pride and vanity, and miniſtring to luſt, or carried on with ſcandal, are not onely againſt humility and ſobriety and chaſtity and charity, but againſt truth too; becauſe they are done with a purpoſe to deceive, and by deceit to ſerve thoſe evil ends. To the ſame purpoſe was the fact of them of whom *Dio Chryſoſtomus* ſpeaks, who knowing that men were in love with old Manuſcripts, would put new ones into heaps of corn and make them look like old: ſuch alſo are they who in *Holland* lately would exactly counterfeit old Meddals, to get a treble price beyond the value of the metal and the imagery. Theſe things and all of the like nature are certainly unlawful, becauſe they are againſt juſtice and charity.

Lib. de diſcipl. & habitu virg.

Orat. 21.

45. 2. But there are other kinds of counterfeits, ſuch as are gildings of wood and braſs, falſe ſtones, counterfeit diamonds, glaſs depicted like emeralds and rubies, a cruſt of marble drawn over a building of courſe ſtone; theſe are onely for beauty and ornament, and of themſelves miniſter to no evil, but are pleaſant and uſeful: now though to ſell theſe images of beauty for real be a great cheat; yet to expoſe them to be ſeen as ſuch, and every man be left to his liberty of thinking as he pleaſe, and being pleas'd as he can, is very innocent.

Vide Senecam epiſt. 115.

46. 3. There is a third ſort of lying or deceiving by ſigns not vocal: that is, the diſſembling of a paſſion, ſuch as that of which *Seneca* complains in the matter of Grief, which is the ſimpleſt of all paſſions; but pretended by ſome without truth to purpoſes not good. *Sibi triſtes non ſunt, & clariùs cum audiuntur gemunt, & taciti quietique dum ſecretum eſt, cum aliquos*

Epiſt. 99.

aliquos viderint in fletus novos excitantur. So did *Gellia* in the Epigram.

Amissum non flet cum sola est Gellia Patrem:
Si quis adest, jussæ prosiliunt lachrymæ.

They are full of tears in company, but in their retirements pleas'd well enough. Now things of this nature are indifferent; but are good or bad according to the cause or the design. *Mourn for the dead*, saith *Ben-Sirach*, *and that a day or two, lest thou be evil spoken of.* That end is honest; and therefore to mourn in solemnity is good, if we cannot mourn in passion: and the laws *enjoyn* to a man and woman respectively *annum luctus*, *a year of solemn mourning*; all which time it is not suppos'd the passion should be troublesome and afflictive. Thus we find *David* pretending madness before *Achish* the King of *Gath*; it was for his life: and we doe not find any of the ancient Doctors blaming the dissimulation.

47. 4. But that which is here the principal inquiry is, whether signs not vocal, which have in them ambiguity, and may signify several things, may be us'd with a purpose to deceive. And to this the answer is the same with the former in the case of equivocation, with this onely difference; That as there is some more liberty in the use of equivocal words, then of a simple lie; so there is some more liberty yet in equivocal actions then in words, because there may be more reasons for such dubious actions then for dubious words, and they are not so near, so usual, * so intended significations of our mind, nor ministeries of entercourse and society. But where they are taken so, they are to be governed by the same rules; save onely that a less necessity may be a sufficient legitimation of such dubious signs: concerning which, besides the analogy and proportion to the former rules, there is no other measure but the severities of a good and a prudent man taking into him the accounts of Christian simplicity and ingenuity.

* Vide Aquinat. in 3. l. dist. 38. art. 3. ad 5.

48. I have onely one thing to adde in order to practice. There is a liberty in the forecited cases there where there is a necessity, and where there is a great charity. For in these cases it is true what S. *Chrysostom* saies, *Fraudis quidem magna vis modò ne fraudulento animo fiat: quam ipsam tum ne fraudem quidem nominandam putaverim, verum Oeconomiam quandam potius ac sapientiam artemque, quâ possis è mediis iisque impervîis desperatarum rerum angustiis difficultatibusque correctis & emendatis animi vitiis evadere.* There is a great use of artifices in our words and actions when we are hard put to it in desperate cases and extremest difficulties, and then these arts are not indeed deceptions, but just escapes. But yet this I say, that it is not safe to use all our liberty; because when it is practis'd freely, we oftentimes find our selves ill Judges of the necessity. And however it be, yet it is much more noble to suffer bravely then to escape from it by a doubtful way; 1. for the love and honour of simplicity, 2. for the endeavours of perfection, 3. for the danger of sin, 4. for the peril of scandal. And it was bravely done of *Augustus Cæsar*, who when he had promised ten thousand Sesterces to him that should bring *Corocotta*, a famous Spanish thief, alive into his presence; *Corocotta* himself came and demanded the money, and had it, and he was spar'd besides: he escaped for his wit and confidence; but had the money *pro fide Cæsaris*, according to the faith and nobleness of *Cæsars* justice: for he might have made use of the ambiguity of his words to have kept the money, and hang'd the thief;

Lib. 1. de Sacerdot.

thief; but he thought it Nobler to doe all that he could be thought to have intended by his words. Ὁ μεγαλόψυχος, παρρησιαστικὸς & ἀληθευτικός, ſaies
Lib.4. Eth.c.7. *Ariſtotle, The brave and magnanimous man does not ſneak, but ſpeaks truth and is confident.*

49. It cannot be denied what S. *Clemens Alexandrinus* ſaid, ὅτι καὶ πλησίον ὠφελείας μόνης ποιήσῃ τινα ἃ οὐκ ἂν ἑαυτῷ προηγουμένως αὐτῷ προσχθείη, *a good man will for the good of his neighbour doe ſomething more then he would doe willingly and of his own accord*; yet when it is his own caſe, it is better to let goe his liberty then to run a hazard. *Sarah* did lie, and ſhe was reproved by the Angel; *Abraham* did ſo too, ſaies *Tertullian*, *Saram ſororem ſuam mentitus eſt*, but he was reproved by *Abimelech*: *Jacob* did lie to his Father, but he is not commended for it; and *Rachel* did diſſemble, but ſhe died in childbirth, and it was occaſioned by that, ſay the Jewiſh Doctors: *Simeon* and *Levi* deſtroyed the Sichemites by a ſtratagem, but they troubled the houſe of *Iſrael* by it: *Thamar* deceived *Judah*, but ſhe plai'd the harlot in deed as well as in words. And concerning thoſe worthy perſons mentioned in Scripture who did lie or diſſemble, the Chriſtian Doctors have been put to it to make apologies, and excuſes, and juſtifications for them, and are not yet agreed how to doe it. S. *Baſil* and S. *Chryſoſtome* are two examples of ſeveral proceedings. S. *Baſil* alwaies bore his heart upon his hand, and ſhewed it to every one that was concerned. Saint *Chryſoſtome* uſed craft againſt the ſimple, and fraud againſt him that ſpoke
Vide in fine li. 1. de Sacerd. all things in ſimplicity. *Chryſoſtome* was forced with laborious arts to excuſe and juſtifie it, and did it hardly: But S. *Baſil* had no ſcruple concerning his innocence; what he had concerning his prudence and ſafety does not
Serm. of Chriſtian ſimplicity. belong to the preſent queſtion. But of this laſt particular I have given larger accounts in a Diſcourſe on purpoſe.

50. The concluſion is this, If a man ſpeaks a direct down-right lie, he can very hardly be innocent: but if by intrigues of words and actions, *per involucra verborum* (as *Cicero* calls it) *per orationem intortam* (as the Comedy) *by covers of words*, and *by crooked ſpeeches*, a man have entercourſe, he had need be very witty to be innocent according to the Hebrew proverb, *If a man have wit enough to give croſs and involved anſwers, let him uſe it well*; if he knows not how to doe it well, let him hold his peace. It was but a ſneaking evaſion of S. *Francis*, when the purſuers after a murderer asked if the man came that way; No, ſaith the Frier, thruſting his hand into his ſleeve, he came not here. If a mans wit be not very ready and very clear, while he thinks himſelf wiſe, he may become a vain perſon. The Devil no queſtion hath a great wit, and a ready anſwer; yet when he was put to it at his Oracles, and durſt not tell a down-right lie, and yet knew not what was truth many times, he was put to moſt pitifull ſhifts, and trifling equivocations, and arts of knavery; which when they were diſcovered by events contrary to the meaning which was obvious for the inquirers to underſtand, it made him much more contemptible and ridiculous then if he had ſaid nothing, or confeſs'd his ignorance. But he that does ſpeak, and is bound to ſpeak, muſt ſpeak according to the mind of him with whom he does converſe, that is, ſo to converſe, that by our fault he be not deceived againſt his right, againſt juſtice or againſt charity, and therefore he had better in all things ſpeak plainly: for truth is the eaſieſt to be told; but *no wit is ſufficient for a crafty converſation.*

Rule

RULE VI.

It is not lawfull for private Christians without publick authority to punish Malefactors, but they may require it of the Magistrate in some cases.

1. IN the law of Nature it was permitted: but as the world grew older, and better experienc'd, and better instructed, it became unlawfull and forbidden; in some places sooner, in some places later. The *Ephori* among the *Lacedæmonians* might kill Criminals extrajudicially; and *Nicolaus* of *Damascus* relates, that amongst the *Umbrians* every man was the revenger of his own injuries: for till by laws men were defended, they by revenges and retaliation might drive away the injury as far as was necessary. But because when a man is in pain and grief he strikes unjustly and unequally, and judges incompetently, laws were made to restrain the first licence, and to put it into the hands of Princes onely, because they being common Fathers to their people, were most likely to doe justice equally and wisely. *Iccirco enim judiciorum vigor jurisque publici tutela videtur in medio constituta, ne quisquam sibiipsi permittere valeat ultionem*, said *Honorius* and *Theodosius*, That no man might avenge himself, Laws and Judges and Tribunals were appointed for publick justice.

2. But for this, provisions at first could not be made so generally, but that some cases would happen, and some gaps be left open, which every man must stop, and provide for as well as he could. Thus we find that *Phinehas*, when he saw God was angry with the Sons of *Israel* about the matter of *Moab*, himself, to divert the anger that was already gone forth, smote *Zimri*, a Prince among the Simeonites, and his fair Mistris in his arms, and kill'd them in their Crimes. From his example many Zelots amongst the Jews took liberty to kill a man that sinn'd apparently. So *Mattathias* kill'd a Jew that offer'd sacrifice according to the manner of the Greeks; and the People kill'd three hundred of their Countrymen upon the like account. But this quickly grew into excess and irregularity; and therefore when our Blessed Lord was zealous for the honour of the Temple, he went no further but to use a little Whip to affright them from their prophaneness.

3. And yet in some cases God permitted private persons to be Executioners; as in case a Jew tempted his Child, or Brother, or Neighbour to Idolatry, the tempted person might kill him without delating him to the Judge: and in a cause of Blood, the next of kin might kill the Man-slayer if he overtook him before he took Sanctuary. But here the cases were such that the private person was not Judge, but by leave from God was Executioner upon the notoreity of the fact: for although for a dead person his neareſt relation might with his own hand take vengeance; yet if himself was wounded, he might not, but by the sentence of the Judge, say Deut. 13. 9.

the

the Doctors of the Jews; becauſe he ought not to be Judge where he could hardly be moderate.

4. In the Sea, and in deſart places, where there can be no appeals to Judges, every man is Executioner of the ſentence of the law of Nations. Thus we find that *Julius Cæſar* purſued the Pirats in the Mediterranean and Adriatick Seas; and becauſe the Proconſul would not, he gather'd a ſudden Navy and overtook them, and hang'd them upon the main-yards of their own Veſſels. Thus the wild *Arabs* and *Circaſſian* Thieves, that live in vaſt places, and under no Government, being publick Enemies of Mankind, and under no laws, nor treaties or communications of peace, may be kill'd by every one that is injur'd and ſpoil'd by them, when he can doe it. To this agrees that of *Tertullian*, *In publicos hoſtes omnis homo miles eſt*; and that of *Democritus*, κελεύω καὶ λῃστὴν πάντα κτείνων τις ἀδίκως. ἂν εἴη ἐξ αὐτοχειρίας, καὶ κελεύων, καὶ ψήφῳ, *He that kils a thief and a robber with his own hand, or by command, or by conſent, is innocent,*

εἶτε πάσοι τὰ κ' ἔρηξε δίκη ἰθεῖα γέροιλο.

But this is to be underſtood of the permiſſion in the law of Nature.

5. For in Chriſtianity men are not eaſily permitted to touch blood; not haſtily to intermeddle in the cauſes of blood; not to give ſentence for the effuſion of it: theſe things are to be done with caution, and a ſlow motion, and after a loud call, and upon a great neceſſity, becauſe there are two great impediments: the one is the duty of Mercy, which is greatly requir'd and ſeverely exacted of every Diſciple of Chriſt; and the other is, that there is a Soul at ſtake when blood is to be ſhed, and then they are told, that as they judge they ſhall be judged, as they meaſure it ſhall be meaſured to them again. And therefore Criminal Judges have a tender imployment, and very unſafe, unleſs they have the guards of a juſt Authority, and a great mercy, and an unavoidable neceſſity, and publick utility, and the fear of God alwayes before their eyes, and a great wiſedome to conduct their greateſt dangers.

6. That which remains and is permitted in Chriſtianity is, 1. The *puniſhment of reprehenſion*, of which every wiſe and good man may be judge and miniſter: for as S. *Cyprian* ſaid that every Biſhop is a Biſhop of the Catholick Church, that is, whereever he chance to be, he muſt not ſuffer a Soul to periſh if he can help it, but hath right every where to miniſter to the neceſſities of Souls, who are otherwiſe deſtitute, and every where to pray in private, to bleſs, to abſolve dying perſons, to ſupply the defects of a widow and deſolate Church; ſo every good man hath power to puniſh a baſe and vicious perſon by ſevere and wiſe animadverſions of reproof. For a wiſe man is never a private man (ſaid *Cicero*;) and *Naſica*, and *Cato*, and *Fabius*, and *Lollius* were in authority like perpetual Conſuls, alwayes in power over a vicious man.

7. 2. It is not againſt the laws of Chriſtianity, that Parents, and Tutors, and Maſters, and Governors ſhould puniſh Criminals, that is, ſuch as are ſubject to them, and by ſuch puniſhments as are permitted by law, and by ſuch meaſures as are agreeable to the juſt and charitable ends * of their reſpective

* *Jubet Deus ut manus noſtras ſuper minores ſemper habeamus, hoc eſt, ut peccantes eos aſſiduis verberibus corrigamus, ne amore inutili & indulgentiâ nimiâ educentur ad malum, & ad vitia nutriantur*, Lactant. lib. 6. inſtit.

ſpective governments, and by the analogy and proportions of Chriſtian mercy and clemency: in the execution of which puniſhments there need no other laws be given but what are dictated by the mind of a charitable, diſpaſſionate and a good man. But then in theſe Governments there is more liberty then in any other but the ſupreme: for a perſonal injury done to a Father or a Tutor may be puniſh'd by the Father or Tutor reſpectively, and ſo alſo it may by the Supreme power, *Cum dignitas authoritaſque ejus in quem eſt peccatum tuenda eſt, ne prætermiſſa animadverſio contemptum ejus pariat, & honorem levet*, ſaid *Taurus* the Philoſopher in *A. Gellius*. An injury done to a Superiour is a contempt of his authority as well as injurious to his perſon; and if it be not puniſh'd, will ſoon diſorder the ſuperiority. But then this muſt be wholly for emendation; and though anger may be the inſtrument, yet charity muſt be both the meaſure and the end.

8. 3. When the law hath paſs'd a ſentence, and given leave to any ſubject to be executioner, he that is injur'd may doe it. But this is to be underſtood in one caſe onely that concerns the Subject, and one that concerns the Prince. 1. For if the Prince commands that whoever finds ſuch a perſon ſhall ſmite him to death if he can, every man is bound to it, if the law be juſt: as in the caſe of Treaſon, or deſerting their military ſtation, it hath ſometimes been decreed. *In reos Majeſtatis*, *againſt Traitors* every man is a Souldier, ſayes *Tertullian*, who affirms it alſo concerning all publick Enemies. 2. The other caſe, which relates to the advantage of the Subject, is, when the execution of the publick ſentence is neceſſary to be done ſpeedily for the prevention of future miſchiefs. Thus *Juſtinian* gave leave to every man to kill the Souldiers that came to plunder; for in that caſe there was no ſtaying for ſolemnities of law, and the proceedings and method of Courts; *Melius enim eſt occurrere in tempore quam poſt exitũ vindicare. Veſtram igitur vobis permittimus ultionem, & quod ſerum eſt punire judicio, ſubjugamus edicto, ut nullus parcat militi, cui obviare telo oporteat ut latroni.* This which the law cals a revenge is but a meer defence, it is a taking the miſchief before it be intolerable; and therefore this will be the more out of queſtion: for certainly if ſome puniſhments are lawfull, all neceſſary defences are much more; this onely excepted, that the degree of this is exceſſive and uncharitable, and therefore ought not to be done, but in thoſe caſes where the evil likely to be ſuffer'd by the innocent is intolerable, as if the plunder be the undoing of a man and his family, and will cauſe them to periſh, or to be extremely miſerable; and therefore *Ulpian* ſaid well, *Furem nocturnum ſi quis occiderit, ità demum impunè feret, ſi parcere ei ſine periculo ſuo non poterit*, Though the law permits a man to kill a Night-thief, yet he may not doe it if he can ſecure himſelf without it: but when to ſpare the Thief will be his own undoing, then he may. For it is true which was ſaid of old,

Cod. rubr. *quando liceat ſe ſine judice vindicare.*

Res omnes conditæ famulantur vitæ humanæ;

And again,

Nobiliſſimum eſt quod orbis habet humana vita.

Nothing is fit to be put in ballance to the life of man; and therefore when a man's life and a man's goods are compar'd abſtractly, theſe are extremely out-weighed by that: and therefore for little and tolerable loſſes it were well if the laws would appoint leſſer puniſhments then Death. But when it is conſider'd, that a great loſs makes a man and all his family live a miſerable life, and men willingly venture their lives to ſave ſuch great por-

tions, the laws that put ſuch thieves to death are very juſtifiable. And it is obſervable that when God in *Moſes* law appointed a mulct of money upon thieves, it was ſuppoſed to be in ſuch robberies where the thief was able to reſtore four-fold. Adde to this, that if our laws did provide that ſtollen goods ſhould be reſtored, they would leſs need to give leave to the true man to kill the thief. But now that he is the more likely to be undone, becauſe no reſtitution is to be made him, he may in the caſe of ſuch great ſpoilings be better allowed to be the executioner of the ſentence of the law to prevent his ruine, and to defend his right. But it were much better if he would not at all uſe this liberty.

9. 4. But when the evil is paſt if the law permits the execution of her ſentence to the injur'd perſon; it is to be ſuppoſed that there is onely an indulgence to the grief of him that is wrong'd, and therefore if he kills the injurious man, he is indemnified in law, but not quitted in Conſcience. Thus when the Civil law of old, *L. Gracchus C. ad legem Juliam, de Adulteriis*, and at this day the Spaniſh laws permit the wronged Huſband to kill the adulterer, it is lawful; that is, it is not againſt juſtice, and therefore the law cannot puniſh it: but becauſe it is extremely againſt charity, his Confeſſor ought not to abſolve him without repentance and amends; for the Goſpel does not approve it. The reaſon is, becauſe if the injury be done, the execution is meerly revenge, without the mixture of any good thing to legitimate it. Now if the law does it by her miniſters, it is παράδειγμα, an example, ἵνα ἄλλοι φρόνιμον ποιῶνται καὶ φοβῶνται (as *Demoſthenes* his expreſſion is) that others may be afraid, & not be tempted by impunity. But if the man does it by his private hand, there is in it leſs of obſervation and exemplarity; or if there were not, yet there were leſs intended; and therefore the private executing hand is not ſo innocent: Rom. 12. 19. μὴ ἑαυτοὺς ἐκδικοῦντες, ſaith the Apoſtle, *we muſt not avenge our ſelves*: this can hardly be reconcil'd with ſuch executions. There is onely this allay in it, that if the wronged husband can no other way prevent his diſhonour and his wives ſin or continuance in it, if the law permits it to him, it may be ſuppos'd to be done for prevention, not for revenge; and if it be ſo, as it is ſuppos'd, it hath many degrees of excuſe, and ſome of lawful, but nothing commendable; for nothing can reconcile it to charity, becauſe (as I obſerved before) there is a ſoul in the way which ought ſtrangely much to be regarded. Nay there are two Souls: for it was rarely ſaid by *Pythagoras*, as *Iamblichus* relates, πολλῷ μᾶλλον ἀδικεῖσθαι δεῖν, ἢ κλέπτειν ἄνδρα· ἐν ᾅδου γὰρ κεῖσθαι πλὴν κρίσιν, *it is better to ſuffer the injury then to kill the man: For after death there ſhall be a judgment*; he that did the wrong ſhall be puniſh'd, and he that ſpar'd him ſhall be rewarded.

10. 5. But if the Criminal be of ſo deſperate an impiety that he ſeems incorrigible, and of a long time hath ſeem'd ſo (for that is the beſt way to prove him ſo) then it is lawful for a private hand to be executioner of the publick ſentence; but he that is injur'd ought not to doe it. Not that it is murder, or directly unlawful in the preciſe action: but that it can hardly be quitted from revenge; and it will be hard for any man to be ſo good as not to have juſt cauſe to ſuſpect himſelf, if he be ſo bad, upon the meer permiſſions of law to thruſt his hand into his brothers heart. Other perſons may doe it out of zeal or love of their countries good. The Civil law gave leave *exercendæ publicæ ultionis adverſus latrones, deſertoreſque militiæ*

militiæ, of executing the anger of the law againſt fugitive ſouldiers, and common robbers: he that had not been robbed by them might better doe it then he that had: for it being permitted *pro quiete communi, for the publick peace*, he is a good patriot that honeſtly and juſtly miniſters to that end alone; but he that hath ſuffer'd by them, had need be an Angel, if he does not ſpoil that good end by the mixture of revenge; and if he be an Angel he will find a better imployment then to kill a man where it is not commanded, and where it is not neceſſary.

11. 6. Some affirm that Princes are never to be reckoned to be private perſons, when they proceed according to the ſentence and meaning of the law, though they doe proceed *brevi manu*, as the ſtyle of the law is; and doe not proceed by the methods and ſolemnities of law by reaſon of diſability to doe it. Thus if a man grow too hard for the laws, the Prince muſt ſend Souldiers to him, not Serjeants, if the caſe be notorious and it be a publick ſentence: and the Lord Mayor of *London* did ſtrike *Wat Tyler*, though he was not convicted in law, nor ſentenc'd by the Judges. Upon this account the King of *France* offered to defend the killing of the duke of *Guiſe*: concerning which I cannot give accounts, becauſe there might be in it many ſecrets which I know not. But if there wanted nothing but ſolemnities of law, and there wanted power to ſuppreſs him by open force, and that it was juſt and neceſſary that he ſhould die, and by law he was guilty of it, if there was any thing wanting which ſhould have been done, he that died was the cauſe of it, and therefore to him it was to be imputed. But ſuppoſing what theſe men affirm to be true; (concerning which I ſhall affirm nothing) yet this is very rarely to be practis'd, becauſe it is ſeldome lawful, if ever it be, and not without the concurrence of very many particulars, and is very eaſily abuſed to extreme evil purpoſes; as in that intolerable and inhumane maſſacre of *Paris*, which all generations of the world ſhall ſpeak of with horror and the greateſt deteſtation. But concerning the thing it ſelf that which the lawyers ſay is this, *Generale edictum accedente facti evidentiâ habet vim latæ ſententiæ, when a law is clear, and the fact is evident, the ſentence is already paſt*: and therefore ſome of them are apt to ſay, To doe the ſame thing in a chamber is not murder, if it be juſtice when it is done upon a ſcaffold; for the ſame demerit in the criminal and the ſame power in the Supreme is an equal cauſe and warranty of the execution. And ſince it is cheaper to imploy a Phyſitian then an army, and there is leſs prejudice done to the publick by ſuch a courſe; ſince the State of *Venice* kills upon ſuſpicion, and there are ſome things known which cannot be proved, and cannot be ſuffer'd, and ſince we ſee that ſolemnities of law, like thin aprons, diſcover more ſhame ſometimes then they hide, and give more ſcandal then they remove; theſe men are more confident then I am: for they dare warrant this courſe which I dare not. But he that will adventure upon this, muſt take care that it be done 1. by a competent authority, 2. upon a juſt cauſe, 3. for a great neceſſity, 4. according to the intent and meaning of the law; 5. it muſt be *in ſummo & mero Imperio*, by one that is abſolute and ſupreme; 6. it muſt be upon notoreity of fact, 7. when there is no ſcruple of law, 8. and if after all this there be no ſcruple in conſcience, 9. nor yet any other means of ſecuring the publick, 10. and the thing have in it as great charity to the publick, as there is in it juſtice to the particular, 11. and that the warre be not *juſtum bellum*, that is, between ſupreme powers, 12. nor yet any treaty,

or promiſe, faith or covenant to the contrary between the ſupreme and the inferior offending; 13. nor yet there be a ſcandal of greater miſchief then can be procured by the unſolemn proceeding; 14. nor is done *refragante judicio procerum, & ſententiis jurisprudentum*, againſt the earneſt advice of prudent and grave perſons, which if it happen will arreſt the reſolution, and give check and conſideration to the Conſcience: then it is ſuppoſed by many that there may be reaſon enough to forbear what cannot be us'd, that is, *the ſolemnities of law*, which are the methods of peace, not to be expected in a ſtate or time of warre. And by this time it will be ſo hard to doe it juſtly, that it will be better to let it alone. For after all theſe cautions and proviſo's, it is not permitted to aſſaſinate or privately to murder the Criminal; but to proceed by open force or by avowed manners of juſtice, though they be not ſolemn, and the common waies of peace; that is, they muſt be owned in publick, and aſſerted by law, either antecedently or *ex poſt-facto*. An example of the firſt way is frequently ſeen in in *France*; where the fugitives of law are proceeded againſt in their abſence, and executed *in effigie*; and in the ſtates of *Italy* againſt the *Banniti*: and of the ſecond way examples have been ſeen in the *Manifeſto's* of ſome Princes when they have been put to ſuch extrajudicial and private waies of animadverſion. But theſe things happen not but in ſuch places where Princes are more abſolute, and leſs Chriſtian, or that the Subject tranſgreſſes by power.

12. 7. Upon the like account it hath in ſome ages of Chriſtianity it ſelf, but in many ages of Gentiliſme, been permitted that by ſingle duel men prove their innocence, and oppreſs the ſuppoſed Criminal:

——— puróque pióque duello
Quærendas res cenſeo———

ſaid one of the Roman Senators to *Ancus Martius*. Now concerning this I ſhall not need to ſay much; becauſe now long ſince all Chriſtian Princes and States, & all Churches and Eccleſiaſtical perſons have condemned it as a grievous crime, upon theſe two accounts: 1. Becauſe it is a tempting God by waies which he hath never allowed, it is a lottery that he never gave warrant to: and upon this account it was that *Pope Nicolas* the firſt forbad the Emperor *Lotharius* to try his wives ſuſpected chaſtity by the combat of two champions, *cùm hoc & hujuſmodi ſectantes, Deum ſolummodo tentare videantur*; and to the ſame purpoſe *Pope Celeſtine* and ſome others did forbid it 2. Becauſe the innocent perſon is expos'd to equal danger with the Criminal, and hath been oftentimes oppreſs'd; as it happened in the caſe of *William Cadur* an armourer in *Fleetſtreet*, who being by his ſervant *John David* falſely accuſed of treaſon, was yet ſlain in *Smithfield* by his perjur'd adverſary: and then the people have accepted the event as a divine teſtimony, which in this caſe being to a lie and to the falſe part, muſt needs be infinitely diſhonourable to God. But if it were not for theſe and ſome other evil appendages, and if the innocent perſon were ſure to prevail, and the law made the private hand the miniſter of Juſtice, who onely can tell the ſecret, and therefore is the ſureſt Judge, there is no peradventure it might as well be done by that hand as by any other. But this cannot be reduc'd to practice at all; but in the whole conjunction of affairs is highly criminal and intolerable. In *Spain* we find that a duel was permitted between two eminent perſons [*los infantes de lara*, the Spaniards call them] onely upon the accuſation of an injury done to ſome Ladies, the daughters of *Rodrigo de Bibar*,

Cauſ. 2. qu. 5. c. 22. monomachiam. Decret. tit. de vulgari purgat. 6 Stows Annals. 25. of Henry

Bibar; and the victory was gain'd by him that was innocent: and another by the men of *Zamora* in the case of the death of King *Sanctus*; and quickly they found advocates and defenders. And *Vasquius* affirms it may as well be permitted by law, as that an injur'd Husband should kill the adulterer. But besides the reasons formerly alledged against such private executions of an uncertain sentence; because they have no foundation in justice or charity, neither in publick or private good, they are deservedly banished from all Christian Countries.

13. But this is to be understood onely of Judiciall Duels, whether Criminal or Civil; for as for Duell extrajudiciall and private, it is so Unjust, so Uncharitable, and so Unreasonable, so much against all Laws of God and Man, so infinitely against the piety of him that survives it, so infinitely against the hopes of him that dies in it, that nothing can excuse it: but even Duels which are permitted by laws, ought not to be so, and are not permitted by religion; excepting onely when the Duel is a *compendium* of war, and is designed to doe justice, and to prevent the greater issues of blood.

14. Thus the Romans and Albans determin'd their wars by the fight of three Champions of each side; and the *Curiatii* being subdued by *Horatius Cocles*, the City *Alba* came into subjection to *Rome*. *David* and *Goliah* fought for their respective Countries; but the Duel did not determine it directly, but onely discourag'd the conquer'd party. Upon the same account *Clodoveus* the first Christian King of *France* offer'd to fight with *Alaricus* Prince of the West Goths; *nobilissimo pari fortunam utriusque gentis decretum in*, said *Paulus Æmilius*: and *Guicciardine* tells that Lib. 5. hist. Ital. when the French and Italian armies were ready to joyn battel, the fortune of the day was committed to thirteen Champions on either part. *Cambden* in Dobunis reports that when the Saxons and Danes grew weary of the so great effusion of blood caused by their daily wars, *misso in compendium bello, utriusque gentis fata Edmundo Anglorum & Canuto Danorum Regibus commissa fuerunt, qui singulari certamine de summa Imperii in hac insula depugnarunt.* *Edmund* and *Canutus* fought in a little Island by *Glouceſter*, and drew the war into a *compendium*, and sav'd the lives of their Subjects by hazarding their own. *William* Duke of *Normandy* offer'd this to *Harold* before the battail in *Sussex*: And King *John* of *England* to *Lewis* of *France*, by deputed Champions. And *Richard* the second of *England* challenged *Charles* the sixth of *France* concerning the title of the French Crown. And Pope *Martin* allowed the Duel between *Charles* of *Anjou* and *Peter* of *Aragon* to determine the question concerning the Kingdome of *Sicily*. These indeed are great Examples, and are then onely just when the war is just, and on that side onely on which it is just. *Hæc est necessitas quæ bellum* Bald. 5. consil. *justificat* (saith *Baldus*) *cum ad bellum extremo loco confugitur*, When the 493. war is necessary and the case is extreme, the necessity makes it just, when the contrary evil is intolerable: and when things are come to this pass, then it is true what *Bodinus* saies, *Non interest quo numero adversus hostes decernatur*, It matters not by how few the war be ended. Such a Duel is a just war, as all war antiently was called a Duel,

Græcia Barbariæ lento collisa duello, Horat. epist. l. 1. ep. 2.

All Greece *and* Barbary *fought a duell*; it is *duarum partium congressus*, the contention of two armies as well as two single persons: and that the words

are *ſynonyma* we find in *Varro* [a], *Feſtus* [b], *Plautus* [c], and *P. Merula* [d]; but concerning the thing it ſelf, who pleaſe to ſee more inſtances and precedents, more arguments and verifications of it, may at his leiſure find many particulars in *Friſius* [e], *Ayala* [f], *Bocerus* [g], *Alciat* [h], *Bodinus* [i], *Benther* [k], and *Albericus Gentilis* [l].

a De lingua Latina. b in verb. Duellum. c Amphitruo. d in lib. 1. Annal. Enn. e de Rep. lib. 1. cap. 26. f lib. 1. c. 3. g lib. 2. c. 8. h de Singul. certam. c. 3. i de Rep. c. 4. l. 7. k concluſ. 76. l de Jure belli, lib. 1. c. 3.

I have now deſcribed the prohibitions of private executions, together with the caſes in which they have been or may be permitted. The next Queſtion is upon the latter part of the Rule.

Whether it be lawfull for a Chriſtian to require of the Magiſtrate that his offending Brother may be puniſhed.

15. If the injur'd perſon be deſign'd onely to puniſhment οὐκ ζέσεως ἕνεκα θερμοῦ αἵματος, and διὰ ὄρεξιν ἀντιλυπήσεως, *out of anger and a deſire to be reveng'd*, there is no queſtion but it is infinitely Unlawfull. *Render not evil for evil*, and divers other prohibitive words of our Bleſſed Lord, cannot mean leſſe then the forbidding of revenge, though obtain'd and deſir'd from the hand of juſtice; for although the Magiſtrate is bound to doe it, if requir'd, yet he that requires for vengeance ſake is of an Unchriſtian ſpirit: and this was obſerved by *Dion* in *Plutarch*, Τὸ ἀντιτιμωρεῖσθαι τῷ πρᾶξαι δίκην νόμῳ δικαιότερον ὠφελῆσαι φύσει γινόμενον ἀπὸ μιᾶς ἀσθενείας, To receive & require amends from the law is more juſt then that injury againſt which juſtice is required; but it proceeds from the ſame weak principle; and therefore it is fit for none but fools and weak perſons:

Juvenal.

——*quippe minuti*
Semper & infirmi eſt animi exiguique voluptas
Ultio: continuò ſic collige, quod vindictâ
Nemo magis gaudet quam femina——

or rather it becomes not ſuch perſons; for nothing can become them but to leave their folly and to grow wiſer; for it is *cæcus & irrationalis furor*, as *Lactantius* calls it, *inhumanum verbum eſt*, ſaith *Seneca*, it is unreaſonable, and inhumane, and brutiſh: οὐκ ἐφηδόμεθα, ὦ δέσποτα, τιμωρίας ἐχθρῶν, δεδιδαγμένοι παρὰ τοῦ ἱεροῦ νόμου ἀνθρωποπαθεῖν, ſaid the Jews of *Alexandria*, *We are not delighted in taking revenge againſt our Enemies, becauſe by the laws of God we are taught to have compaſſion on men.* And therefore is this much more to be obſerved in Chriſtianity, where we are all members one of another, united to Chriſt our head; and therefore we ſhould comport our ſelves as members of the ſame body: concerning which *Caſſiodore* ſaies prettily, *Quod ſi manus una caſu aliquo fortè lædat alteram, illa quæ læſa eſt non repercutit, nec ſe erigit in vindictam*, If one hand ſtrikes the other, it is not ſtricken again, neither doth the other think to be reveng'd; as knowing it was too much that one was ſmitten.

De amicitia.

16. 2. It is lawfull for a Chriſtian to require of the Magiſtrate to puniſh him that is injurious, if he juſtly fears a future and intolerable evil; for then it is but a calling to the law for a juſt defence, without which the Magiſtrate ſhould bear the ſword in vain. *Clemens Alexandrinus* defines τιμωρίαν or puniſhment (meaning that which is juſt, and in ſome caſes reaſonable to be requir'd) to be κακοῦ ἐπιπόθησιν ἐκ τοῦ τὸν τιμωρούμενον συμφέρον ἀναφέρεσθαι,

μῶλω, *a return of evil* (not for the vexing of the injurious, but) *for the relief or commodity of the complainer.* But if it be that which *Aristotle* defin'd it, τῦ πιοιῶτ Θ. ἕνεκα, ἵνα ἀναπληρωθῇ, *for the satisfaction of him that punishes*, that is, that he may have the pleasure of revenge, then it is intolerable. And therefore it must be alwaies provided that this appeal respect the future onely, and not that which is past; for that is revenge, and this is caution and defence.

17. 3. In all repetitions of our rights which are permitted to Christians before Christian Judges, it is not lawfull for Christians to take any thing for amends beyond the reall losse or diminution of good: for that is a retribution of evil, which at no hand is permitted to a Christian. The Jews might receive four-fold, Christians must be content with simple restitution of their los and reall dammages.

18. 4. Christians must not go to law but upon very great cause; and therefore some of the Heathens, *Musonius*, *Maximus Tyrius*, and others, would not allow ὕβρεως δίκλω, any amends at law for reproachfull or disgracefull words. And the Christians, who neither were nor ought to be behind them, desir'd not their Calumniators to be punished. So *Justin Martyr*, *We will not those to be punished who doe calumniate us. Their own perverseneß and ignorance of good things is enough already of calamity.* Μηδὲ μικρὸν ἀμεῖβεσθαι μηδένα βουλόμενοι, ὡς ὁ καινὸς νομοθέτης ἐκέλευσε, A Christian is commanded by Christ our *new Law-giver* not to be revenged, no not a little. *Abstinere à litibus etiam pluſquam licet*, said *Cicero*, We must abstain from suits of law, even far beyond our convenience: and in the Primitive Church they took all honest things for Commandements, and therefore did not think it lawfull at all to go to law; ὐ δικάζονται τοῖς ἁρπάζουσι, saith *Justin Martyr* of them, *They doe not go to law with them that rob them.* But that it is lawful, the publick necessities are a sufficient argument; and yet men for want of charity make more necessities then needs: for if charity be preserv'd according to its worthiest measures, there would be no suits of law, but what are not to be avoided; that is, there would be none for revenge, but some for remedy and relief. And this was that which * *Musonius* said, ἀτελὲς ἔσται καὶ πάνυ φιλόδικον κακηγορίας δικάζεσθαι, It is not ingenuous to be running to law upon every provocation though by reall injury: μήτε ἄρχειν λοιδορίας, μήτε ἀμύνεσθαι τὸς λοιδορῦντας, said *Pythagoras*, A wise man will neither revile his neighbour, nor sue him that does. For Good men (said *Metellus Numidicus*) will sooner take an injury then return one: and if we read the Sermon of *Maximus Tyrius* περὶ τῦ εἰ ἡ ἀδικεῖσθαι ἀντιδικητέον; *whether it may be permitted to a good man to return evil to the injurious?* it will soon put us either to shame, or at least to consider whether there be no command in our religion, of suffering injuries, of patience, of longanimity, of forgiveness, of doing good for evil; and whether there be not rewards great enough to make amends for all our losses, and to reward all our charity; and whether the things of this world cannot possibly be despised by a Christian; and whether peace and forgiveneſſe doe not make us more like to God and to the Holy Jesus. Certainly if a Christian be reproach'd, rail'd at, spoil'd, beaten, mutilated, or in danger of death, if he bears it patiently and charitably, he may better say it then *Achilles* did in *Homer*,

Vide *Great Exemplar*, part. 2. p. 363.

* apud Lysiam.

Serm. 2.

——— Φρονέω ὄ τιμῆσθαι Διὸς αἴσῃ,

I hope for this charity to be rewarded by God himſelf. If a man have relations, and neceſſities, and obligations by other collateral duties, *he muſt* in ſome caſes, and in many more *he may* defend his goods by the protection of laws, and his life and limbs; but in no caſe may he go to law to vex his Neighbour: and becauſe all law-ſuits are vexatious, he may not go to law, unleſs to drive away an injury that is intolerable, and that is much greater then that which is brought upon the other.

19. 5. When a Chriſtian does appeal to Chriſtian Judges for caution, or for repetition of his right, he muſt doe it without arts of vexation, but with the leaſt trouble he can; being unwilling his Neighbour ſhould ſuffer any evil for what he hath done. *Omnia priùs tentanda quam bello experiundum.* He muſt trie all waies before he go to this; and when he is in this, he muſt doe it with as little collateral trouble to his adverſary at law as he can. To this belongs that of *Ulpian, Non improbat prætor factum ejus qui tanti habuit re carere, ne propter eam ſæpiùs litigaret. Hæc enim verecunda cogitatio ejus qui lites exſecratur non eſt vituperanda.* A man muſt be modeſt and charitable in his neceſſary ſuits at law; not too ready, not too greedy, not paſſionate, not revengeful: ſeeking to repair himſelf when he muſt needs, but not delighting in the breaches made upon his Neighbour.

20. In order to this, it would prevent many evils, and determine many Caſes of Conſcience, or make them eaſie and few, if evil and rapacious Advocates that make a trade, not to miniſter to juſtice, but to heap up riches for themſelves, were not permitted in Common-wealths to plead in behalf of vitious perſons and manifeſt oppreſſors, and in cauſes notoriouſly unjuſt. *Galeatius Sforza* Duke of *Millain* being told of a witty Lawyer that was of evil imployment, a patron of any thing for money, imploying his wit to very evil purpoſes, ſent for him, and told him that he owed his Painter a hundred Crowns, and was not willing to pay him; and therefore asked him if he would defend his cauſe in caſe the Painter ſhould require his money at law. The Advocate promiſed him largely, and would warrant his cauſe; which when the Duke heard from his own mouth, he cauſed him to be hang'd. The action was ſevere, but ſtrangely exemplary. I have nothing to doe with it, becauſe I am not writing Politics, but Caſes and Rules of Conſcience: but I have mention'd it as a great reproof of all that which makes Cauſes & Suits of Law to be numerous; which is a great ſign of corruption of manners, if not of laws, in any place; but amongſt Chriſtians it is a very great ſtate of evil. And therefore *Charles* the ninth of *France* made an edict that whoſoever began a ſuit at law ſhould pay into the Finances two Crowns; which if his cauſe were juſt he ſhould loſe, if it were unjuſt the law would ſufficiently puniſh him beſides: but even upon a juſt cauſe to go to law, is not the commendation of Chriſtian juſtice, much leſſe of charity, τότε ἂν εἴη πόλει τῇ φίλοι, ὅπου πολλαὶ μὲ δίκαι ὦν ἀλλήλοις εἶεν, ἀλλ' ὅπου ἀς ὅτι σμικρόταται καὶ ὀλίγιστοι, *Then charity is beſt preſerved amongſt Citizens, not when there are moſt deciſions of cauſes, but when the ſuits are feweſt.*

Rule

RULE VII.

It is not lawfull to puniſh one for the offence of another; meerly, and wholly.

1. *Quod tute intriſti, tibi comedendum eſt*, ſaid the Comedy, As you knead, ſo you muſt eat; and he that eats ſowre grapes, his teeth only ſhall be ſet on edge. This is the voice of Nature, of God, of right reaſon, and all the laws, and all the ſentences of all the wiſe men in the world; and needs no farther argument to prove it. But there are in it ſome caſes which need explication. 1. Concerning perſons conjunct by Contract; 2. In perſons conjunct by Nature; 3. In them which are conjunct by the ſociety of Crime. For in all theſe one is puniſhed for the fault of another; but how far this can be juſt and lawfull, are uſefull inquiries in order to the conduct of Conſcience.

2. 1. The firſt inquiry is concerning perſons conjunct in Contract; ſuch as are Pledges in War, Sureties for Debt, Undertakers for appearance, and the like. Concerning Pledges in War, it hath been ſometimes practiſed in warlike Nations, to put them to death when their parties have broke their promiſe. The *Theſſalians* kill'd 250, the *Romans* 300 of the *Volſci*; and this they might doe by the law of Nations: that is, without infamy and reproach, or any ſuppoſed injuſtice: they did practiſe it on either ſide. But the thing it ſelf is not lawfull by the law of God and Nature, unleſs the Pledges be equally guilty of the Crime. When *Regulus* was ſent to *Rome* to get an exchange of priſoners, and himſelf upon his promiſe was engaged to releaſe them, or to return himſelf; when he perſwaded the Romans not to releaſe the *African* priſoners, the *Carthaginians* had reaſon to account him guilty as his Country. But when the Pledges are not, it is againſt the law of Nature to put to death the innocent. For either the Pledges are violently ſent in caution againſt their wills, or with them. If againſt, then the wrong is apparent, and the injuſtice notorious. If with their will, it is to be conſidered, it is beyond their power; for, *nemo membrorum ſuorum Dominus videtur*, ſaith the law, l. *liber* ff. *ad legem Aquiliam*: and therefore it is that in Criminal cauſes, where Corporal puniſhment is inflicted, no man is permitted to be Surety for another, but in Civil cauſes he may; becauſe no Surety may lawfully be put to death for the Principal, as is noted by the Gloſs in *cap. Cum homo* 23. q. 5. The reaſon is plain; He that is Surety for another can engage nothing of which he is not the Lord, and over which he hath no power; and therefore he cannot lay his body, his life, or limb, at ſtake. No man hath power to engage his ſoul for the ſoul of another, that is, ſo as to pay his ſoul in caſe of forfeiture to acquit another; for it is not his, it is anothers; it is his who hath purchaſed it and is Lord over it, that is Chriſt: and ſo is our body redeemed by the blood of Chriſt, *For ye are bought with a price, therefore glorifie God in your body and in your ſpirit, which are God's*, ſaith the Apoſtle. Now this is ſo to be underſtood, not that one man may not feel the calamity which the ſin of another can bring upon him; but that the law cannot inflict Corporal puniſhment upon any relative, ſo as the Criminal 1 Cor. 6. 20.

Criminal ſhall eſcape, and the law be ſatisfied, as if the offending perſon had ſuffered. If a Father be a Traytor, the law may juſtly put him to death though the wife will die with ſorrow. But the law cannot put the wife to death, or the ſon, and let the husband goe free. One relative may accidentally come into the ſociety of anothers puniſhment, not only if they be partners of the Crime, but though one be innocent; but one cannot pay it for the other and acquit him. This I ſay is to be underſtood in Corporal puniſhments.

3. But in Pecuniary puniſhments the Caſe is otherwiſe. For a man is Lord of his money, and may give it away, and therefore may oblige it; and he that is Surety for anothers debt, gives or lends it to him that is principally obliged; and therefore it is juſt to take it, and the Surety hath power to doe it. But by the way it is obſervable, that the Surety can only oblige his money, or himſelf to the payment of his money: but when the Creditors had power to torment the inſolvent Debtors, no man could give himſelf a Surety directly for that torment; but by making himſelf a Debtor, he did by conſequence make himſelf Criminal if he did not pay, and ſo might with as much juſtice be tormented as the principal Debtor.

4. But the whole buſineſs is unreaſonable as to this inſtance, and therefore the inquiry is ſoon at an end, and the caſe of conſcience wholly different; for in this particular it is not only unlawfull to puniſh the Surety with Corporal puniſhment, but even the Principal that is inſolvent is to be let alone. If he fell into poverty by his prodigality, the law may puniſh that as ſhe pleaſe; or if he intends to defraud the Creditor, he may be puniſhed, or conſtrained to pay: but if he fall into poverty ἐκ τῦ συμβεβηκότος & ἀ ῥᾳθυμίᾳ, as *Juſtinian*'s expreſſion is, *by unavoidable accident, not by impious courſes*, it is againſt juſtice and charity to put him to trouble.

5. Concerning which, though it be not pertinent to this rule, but here only very well occaſioned, I ſhall give this ſhort account, that at once I may be wholy quit of this particular. * In the laws of the XII Tables it was permitted to Creditors to impriſon, to torment, to put their inſolvent Debtors to death; and if they were many of them they might cut the body in pieces, and every man goe away with his ſhare. *Nihil profecto immitius, nihil immanius,* ſaies *A. Gellius*, *niſi, ut reipsâ apparet, eo conſilio tanta immanitas pœnæ denuntiata eſt, ne ad eam unquam perveniretur.* It was an intolerable and cruel juſtice, and only therefore publiſhed in ſo great a terror, that it might never be put in execution: and indeed, as he obſerves, it was never practiſed.

Lib. 20. cap. 1.

6. But *addici nunc & vinciri multos videmus*, ſaith he; that was the next Cruelty: The Debtors were ſold and all their goods; even Kings, ſubject to the Roman Empire, were with their Crowns and Purple, their Scepter and Royal Enſignes, publiſhed by the Crier, and made ſlaves to pay their debts. The King of *Cyprus* was ſo uſed, as *Cicero* in his oration *pro Sextio* ſadly complains. The dividing the body of the Debtor was chang'd into the dividing of his goods; but this alſo was hatefull and complained of by wiſe and good men. *Si funus id habendum ſit quò non amici conveniant ad exequias cohoneſtandas, ſed bonorum emptores ut Carnifices*

ad

ad reliquias vitæ lacerandas ac distrahendas, said *Cicero*: and *Manlius* most worthily, seeing a Roman led to prison like a slave for debt, cried out, *Tum verò ego nequicquam hâc dextrâ Capitolium arcémque servaverim, si civem commilitonémque meum tanquam Gallis victoribus captum in servitutem ac vincula duci videam. To what purpose did I save the Capitol, if a citizen and my fellow-souldier shall for debt be made a slave as if he were taken prisoner by the Gaules?* and therefore he paid the debt and dismiss'd the prisoner. Oratione pro Quintio, apud Livium, l. 6.

7. But because this was cruel and inhumane, when *Pætilius* and *Papirius* were Consuls, a law was made that all the goods and possessions of the Debtors should be obnoxious to the Creditors, but not his body; but yet so that the Debtors did work for their Creditors, but not in chains: and this lasted till the *lex Julia* decreed (in *Augustus* his time) that the insolvent Debtors might quit all their goods, but neither suffer chains, nor slavery, nor doe labour for their Creditors: but the benefit of this law extended not to prodigal and vain persons, but to those only *qui vi majore aliquâ fortunis evertebantur*, (that was their word) *who were undone by any great violence*, by shipwrack, or fire, or any accident unavoidable. For as for others, they were delivered to the Capital Triumvirat and punished *ad Columnam Meniam*, that is, whipped extremely; and this continued until the time of *Gratian* the Emperor, who decreed that such Debtors who were not *eversi per vim majorem*, should not receive any benefit by quitting all their goods; but if they were less then their debt, *ad redditionem debitæ quantitatis congruâ atque dignissimâ suppliciorum acerbitate cogantur*, they should be compelled by torment to pay a due proportion: and in this there might be severity; but it had in it very much of Justice. But for the other part of it, of the intire cession of goods, and that the insolvent miserable Debtor should be exposed to starving, this had neither charity in it nor justice; and therefore after much complaining, and attempts of ease, it was wholly taken away by the Emperors, *Constantine*, *Gratian*, and *Justinian*, Novel. 135. Πᾶ γὰρ δίκαιον ἅπαξ ἐκ τῦ συμβεβηκότος ἐν ῥᾳδυμίᾳ ἀβιοδιδόμην ἐκτὸς τῶν αὐτῦ γεγονότα, αὖθις ἀχήμονα καὶ βίον ἑαυτῷ ἀβασπάστον ἔχειν, καὶ τῆς ἡμέρου τροφῆς, ὡς εἰκὸς, τῆς τε τῦ σώματος σκέπης ἔξω δικαίως καλαφλῶσι. *It is infinitely unjust that he who is fallen into poverty without his fault should be constrained to live a shamefull life, without his daily bread, and the necessary provisions for his back:* and then it was ordered that if the Debtor did *ejurare bonam copiam*, that is, *swear that he had not goods sufficient to pay the debt*, he should be free. Vide Ravardum ad Ll. 12. Tabul. c. 8. Lib. 1. Cod. Theod. qui bon. ex leg. Jul. ced. & l. si victum. ff. de re judic. l. 2. C. de exact. tribut. l. 10.

8. This was made into a law long before the time of *Gratian*; when *Sylla* was *Dictator*, *Popilius* demanded it, and it was decreed. But Tyrants usually make good laws, and after they are dead are so hated, that even their good laws are sometimes the less regarded: and so it happened in this particular; in so much that *Cicero* spake against *L. Flaccus* for desiring to have *Sylla*'s laws confirmed. But it soon expired through the power of the rich usurers, as we finde by the complaint of *C. Manlius* in *Salust*; and even so long as the *lex Popilia* did prevail, yet they had arts to elude it: for though they could not bind the Debtors in publick prisons, yet they would detain them in their own houses; and though it was a great and an illegal violence, yet the poore mans case is last of all heard, and commonly the Advocates and Judges have something else to doe. In Rullum. In Catilin.

This

9. This is a perfect narrative of this affair; in all which it is apparent that wise and good men did infinitely condemn the cruel and unjust usage of insolvent Debtors who were *per vim majorem eversi*, not poor by vice, but misfortune and the Divine providence. The violence and the injury is against natural justice and humanity, or that natural pity which God hath plac'd in the bowels of mankinde; as appears by the endeavours of the wiser *Romans* to correct the cruelty of Creditors. But the Debtors, though by degrees eased, yet were not righted till Christianity made the laws, and saw justice and mercy done. S. *Ambrose* complain'd most bitterly of the Creditors in his time; *Vidi ego pauperem duci dum cogeretur solvere quod non habebat; trahi ad carcerem quia vinum deesset ad mensam potentis; deducere in auctionem filios suos ut ad tempus pœnam differre possit: inventum fortè aliquem qui in illa necessitate subveniret*, &c. *I have seen a poor man compell'd to pay what he had not to pay; and drag'd to prison because his creditor had not wine enough to drink; and to deferre his punishment a while, forc'd to sell his sons at an outcry. Grandis culpa est*, (saith he) *si te sciente fidelis egeat, si scias eum sine sumptu esse, fame laborare, & non adjuves; si sit in carcere, & pœnis & suppliciis propter debitum aliquod justus excrucietur. It is a great fault, if when you know it, you suffer a faithfull man to want meat and provisions; if a just or good man be in prison, and in chains or torments for debt.* Now if persons not interested in the debt might not suffer such a thing to be and abide, much less might any Christian doe such a thing. If every man that could, was bound to take off the evil; it is certain it was infinitely unlawfull to inflict or to lay it on: and therefore the remains of this barbarity and inhumanity amongst us does so little argue Christianity to be amongst us, that it plainly proves that our Religion hath not prevailed so far upon us as to take off our inhumanity.

Lib. de Nabuthe, cap. 5.

Offic. lib. 1.

10. Of the same nature is that barbarous custome of arresting dead bodies, and denying them the natural rights of burial till a debt be paid. *Ascelinus Fitz-Arthur* arrested the body of *William* Duke of *Normandy*, Conqueror of *England*, upon something a like account. But S. *Ambrose* blames such unnatural cruelty, and derides the folly of it; *Quoties vidi à fœneratoribus teneri defunctos pro pignore, & negari tumulum dum fœnus exposcitur? Quibus ego acquiescens dixi, Tenete reum vestrum, & ne possit elabi, domum ducite; claudite in cubiculo isto carnificibus duriores: quoniam quem vos tenetis, carcer non suscipit, exactor absolvit; To them who seiz'd on dead bodies for their debt, I call'd out, Hold fast your Debtor, carry him home lest he run away, O ye that are more cruel then Hang-men.* But of this sufficient: for whatsoever is against the law of Nature, to have nam'd it is to have reprov'd it. Onely there is one case in which if dead bodies be arrested for debt, I cannot so much complain of it; and that is in the Customes of *France*, where they never imprison any alive for a Debt, unless he be expresly condemn'd to it by the sentence of the Judge, or contracted upon those terms with the Creditor: but when the man is dead they lay their claim, because they cannot hurt the man. This I finde in *Gaspar Beatius*, who cites these Verses for it out of *Johannes Girardus*, no ill Poet, but a good Lawyer.

Lib. de Tobia cap. 10.

Heus principes, duodecim
Tabulæ inopem crudeliter
Quæ debitorem dissecant,

Aut

Aut jura, mores publici,
Quæ carceribus illum miserè
Et opprimunt & enecant,
Nimis mihi, nimis displicent:
Qui Gallum habuit mos bonus
Idem & verus probabitur
Nimis mihi cuique & bono,
Quo Creditores debita
Petant sibi post funera.

But I suppose he might speak this in jest, to represent the lenity of Frenchmen in not casting their Debtors into prison. But if a Debtor should, as *Argiropilus*, jesting at his death, make his rich friends the heirs of all his debts, it would spoil the jest.

Now I return to the other inquiries of the Rule.

11. The second inquiry is concerning persons conjunct by nature; whether (for example sake) Sons or Nephews can be punish'd for the faults and offences of their Fathers and Grand-fathers. Concerning this, I find *Paulus* the Lawyer and *Baldus* speaking exact Antinomies. For *Baldus in l. id quod pauperibus, qu. 9. C. de Episcopis & Clericis*, affirms, *Hæredem teneri ad pœnam ad quam defunctus fuerat condemnatus, The heir of his father inherits his father's punishment:* but *Paulus in l. si pœna, ff. de pœnis*, sayes expresly, *Hæredem non teneri ad pœnam defuncti, The heir is not bound to suffer the punishment of the dead**. But they are both in the right: for the Heir is not tied to suffer the corporal punishment to which his Father was condemn'd, because his Father had no dominion over his Son's body or his own; but over his goods he hath, and therefore can transmit these with their proper burthen: and therefore the Heir is liable to pay the Fine to which his Father was sentenc'd, and to pay his Father's debts, and is liable to the same compulsion, with this onely caution, that if the Father be under torment or imprisonment for insolvency, the Son be no way oblig'd to that; because whether the insolvency of the Father be by his fault or his misfortune, still the Son is not oblig'd: for as he is not bound by his Father's personal fault to suffer personal punishment, so neither for his misfortune can he be oblig'd beyond the suffering of a descending poverty. If his Father was insolvent by his Crime, the punishment was to go no further then the fault, and therefore no torment was intail'd: but if he were insolvent by misfortune, neither the Father nor the Son for that could deserve any further evil; and if the Father transmitted no goods, no advantage to the Son, there is no reason he should transmit a burthen: *Nemo fiat deterior per quem melior factus non est*, sayes the Law. And therefore S. *Ambrose* complain'd of a sad sight he saw; *Vidi ego miserabile spectaculum, Liberos pro Paterno debito in auctionem deduci, & teneri calamitatis hæredes, qui non essent participes successionis, & hoc tam immane flagitium non erubescere Creditorem, I have seen Sons sold Slaves for their Fathers debt, from whom they were never like to receive an Inheritance*; and which is yet more strange, *the Creditors were not asham'd of the impious Cruelty.* But this is a rul'd case both in Divinity and Law. *Nunquam unus pro alio potest pœna corporis puniri*, said *Alexander* of *Hales*, and *Thomas Aquinas*, *No man can suffer corporal punishment in the place of another:* the same with that in the law, *l. Crimen ff. de pœnis.* And therefore of all things in the world, conjunction of Nature, which should be a means of endearment, and the most profitable communications, ought not to be an instrument of the

Lib. de Tobiæ cap. 8.

3. p. q. 41. in 4. a. 4. Coroll. 3. in 2. 2æ. q. 108. a. 4. ad 2.

communication of evil. *Unius factum alteri qui nihil fecit non nocet*, *l. de pupillo*, 5. §. *si plurium. ff. Nov. op. nunt.* And again, *Peccata ſuos teneant autores, nec ulterius progrediatur metus, quam reperiatur delictum*, *l. Sancimus*, 22. *C. de pœnis.* But it is expreſly inſtanc'd in this matter of ſucceſſion, *Unuſquiſque ex ſuo admiſſo pœnæ ſubjiciatur, nec alieni criminis ſucceſſor teneatur*, The Son may ſucceed in his Father's burthens and misfortunes, but not in his crimes or corporal puniſhments. *l. crimen, ff. eod.*

12. And this is the meaſure of the third inquiry. For they who are conjunct in crime, are equally obnoxious to puniſhment; and therefore if one be puniſh'd for the fault of another, it is juſt to him that is puniſh'd, and mercy to them that are ſpar'd. For when all are criminal, all are liable to puniſhment, and ſometimes all doe ſuffer. So did the Campanian Legion that rebell'd at *Rhegium*, and poſſeſs'd the Town for ten years; they ſuffer'd every man, four thouſand heads paid for it. So did the ninth Legion under *Julius*, and the tenth Legion under *Auguſtus*, every man was puniſh'd. For the rule of the law is, *Quod à pluribus pro indiviſo commiſſum eſt, ſingulos in ſolidum obligat*, *l. ſemper*, 5. 2. *ff. Quod vi aut cl. & l. item Mela*, 5. 2. *ff. ad legem Aquiliam.* When every man conſents to the whole crime, every man is wholly criminal. If ten thieves carry away a load of iron, every man is tied to the puniſhment of the whole. * But ſometimes onely the Principals are puniſh'd. Thus at *Capua* ſeventy Princes of the Senate were put to death for rebelling againſt the Romans, and three hundred of the Nobility were impriſon'd, and two hundred twenty five of the *Sorani*. And this way is often taken by Princes, and wiſe Generals, and Republicks, *ut unde culpa orta eſſet ibi pœna conſiſteret*. And *C. Decimus* was heard with great applauſe, when in the caſe of the Rhodians he affirm'd, that the fault was not in the People, but in their Principals and Incendiaries; meaning, it was not ſo in the People as in their Leaders. And in Tumults it often happens as it did at *Epheſus*, when S. *Paul* had almoſt been torn in pieces with the People: the greater part knew not why they were come together, but all were in the Tumult; and in ſuch caſes it is juſtice that one be puniſh'd for many, a few for all: and therefore S. *Ambroſe* did highly reprove *Theodoſius* the Emperour for killing 7000 of the Theſſalonians for a tumultuary reſcuing a Criminal from the hand of the Magiſtrate, and killing the Governour and ſome great Officers in the ſedition. * Sometimes the Criminals were decimated by lot, as appears in [a] *Polybius*, [b] *Tacitus*, [c] *Plutarch*, [d] *Appian*, [e] *Dio*, [f] *Julius Capitolinus*, who alſo mentions a centeſimation. And the reaſon of this equity *Cicero* well diſcourſes in his Oration *pro Cluentio, ut metus, viz. ad omnes, pœna ad paucos perveniret*, *That ſome may be puniſh'd, and all may be made to fear: for the Souldiers being made to fear the bigger fear of their Generals, would never fear the leſs fear of the Enemy*, who does not ſtrike ſo ſurely as the Executioner; and therefore they might afterwards become good Men and good Citizens. But becauſe in publick offences the caſes may be different, they are by this meaſure reduc'd to reaſon.

Livius l. 38.

Sueton. in Julio, c. 69. in Auguſt. c. 24.

Livius l. 36.

Lib. 45.

a Lib. hiſt. 6.
b Lib. 14, & 17.
c In Craſſo.
d Civil. 2.
e Lib. 48.
f In Opilio Macrone.

13. If the tumult or war be by the command of Magiſtrates, the People are to be affrighted, or admoniſh'd, but the Commanders onely are to be puniſh'd. *Ne alieni admiſſi pœnam luant quos nulla contingit culpa*, *l. ult. ff. de bon. Damnat.* For the People are ſoon commanded by him that ſtands next above them. And therefore ſince to obey is like a duty,

it

it is not easily to be reckon'd to a real crime, and the greatest punishment.

14. But if the fault be done by the People without authority or excuse, but just as fire burns a house by chance, or water breaks a dam by its meer weight, then it is to be considered whether the Criminals be many or few: if few, they may all be punished without breach of equity, upon the account of the rule of the law, *Quæ pœna delictis imposita est, si plures deliquerint, à singulis in solidum debetur, l. item Mela, ff. ad leg. Aquil.* But if many were in the crime, then the rule of equity and the gentleness of the law is to take place, *ut pœnæ interpretatione potius molliantur, quam exasperentur, leg. pœn. ff. de pœnis,* a few should be punish'd for all the rest, *ut supersint quos peccasse pœniteat.* For it is of great avail for the publick interest, that as some be cut off, so some should remain alive, that they may repent. And in this sense is that of *Lucan*,

——quicquid multis peccatur inultum est.

Besides that it is evil to the Commonwealth to lose so many Subjects, it is also sometimes dangerous;

——sed illos
Defendit numerus junctæque umbone phalanges.

The determination of these two particulars I learn from *Cicero* in his Oration *pro Flacco*, *Vobis autem est considendum, si consiliis Principum vestræ civitates reguntur, non multitudinis temeritate; optimatum consilio bellum ab istis civitatibus cum populo Romano esse susceptum.* If the Nobles govern your Cities, then the Nobles made the war, and the People are innocent. *Sin ille tum motus est temeritate imperitorum excitatus, patimini me delicta vulgi à publica causa separare,* But if the Rabble did the fault, the City is not to be punish'd; it is not a publick offence. *Multitudo peccavit, sed non Universitas.* For a Rabble does not make a City, a People, or a Republick: for to make this, it must be *cœtus qui jure aliquo continetur; l. metum. §. animadvertendum. ff. quod met. caus.* a multitude under government, and a legal head.

15. But if both the Magistrates and the People be in the offence, *culpa est penes paucos concitores vulgi*, said *C. Decimus*; it is better that the Ring-leaders and the Boutefeus should lye at stake, and feel the severity, while the other are instructed and preserved by the gentleness of laws and Princes.

There are some other questions and cases of Conscience concerning penal laws; but they can with more propriety be handled under other titles, and therefore I shall refer them to their several places. But for the likeness of the matter I have here subjoyned some Rules concerning the measures and obligations of Conscience in the matter and laws of Tribute.

Of Laws of Tribute.

Rule VIII.

The laws of Tribute are moral laws, and not penal, except it be by accident; and therefore doe oblige the Conſcience to an active obedience.

1. HIm to whom we pay tribute, we owe obedience to. It is S. *Pauls* argument to prove that we ought to obey the powers that are ſet over us, becauſe to them we pay tribute; which tribute is not introduc'd by Tyranny, but is part of that Oeconomy by which God governs the world, by his Deputies and lieutenants, the Kings and Princes of the earth. *Nec quies gentium ſine armis, nec arma ſine ſtipendiis, nec ſtipendia ſine tributis haberi poſſunt*, ſaid *Tacitus*. No peace without laws; no laws without a coercitive power; no power without guards and ſouldiers; * no guards without pay: and that the ſouldiery may be paid, and the laws reverenc'd, and the power fear'd, and every mans right be ſecur'd, it is neceſſary that there be tribute. *Ut ſit ornamentum pacis, ſubſidium belli & nervus reip. tributum eſt pecunia populo imperata quæ tributim à ſingulis proportione cenſûs exigebatur*, ſaid *Varro*. But beſides this, the very paying tribute is the ſign and publication of our ſubjection. It is a giving him that which is his own: for he that coyns the money, hath the power of the law, and this from the cuſtome of the world for many ages. The *Perſians* firſt imprinted the figure of their Prince upon their money, after them the *Greeks*: hence were thoſe names of coin, the *Darics*, and *Philippics*; for the money having the impreſs and figure of the Prince, the name & the value from the Prince, is a ſeiſure and ſolemn inveſtiture in the government of that people: and our Bleſſed Lord was pleaſed from hence to argue that therefore they ought to pay tribute to *Cæſar*; becauſe what way ſoever he came firſt to it, Chriſt does not there diſpute, but he was over them, and he protected them in peace, righted their cauſes, reliev'd their oppreſſions, ſtamped their money, gave value to that, and protection to them, and therefore they were bound to pay their tribute. It was *res Cæſaris*, as he was pleas'd to call it, *the things of Cæſar*; it was due to him for the publick miniſtery of juſtice: and this is alſo urged by S. *Paul*, *for they are Gods miniſters, watching for this very thing*, that is, for your good; and therefore are to be maintained according to the dignity of that miniſtration.

Rom. 13.

* *Ad hoc tributa præſtamus, ut propter neceſſaria militi ſtipendium præbeatur.* S. Aug. lib. 22. c. 74. c. Fauſt. Manich. Cicero pro lege Manilia.

2. Now as we owe tribute to whom we owe obedience; ſo we owe obedience to whom we owe tribute: that is, if he have authority to exact tribute, we are bound in Conſcience to pay it. It is a law as much obliging the Conſcience as any other. *Numus* or *Nummus* from *Numa*, ſay the Roman Criticks; becauſe King *Numa* firſt ſtamp'd money amongſt them. But I ſuppoſe it is from a Greek fountain, *Numus* and *Numiſma* from νόμισμα, and that ſaies *Ariſtotle* is ἀπὸ τοῦ νόμου, *from the law*: for he that ſtamps money, gives the law; and amongſt others, and for the defence of all

Lib. 5. Eth. cap. 8.

all laws, this law of paying money to him by way of Tribute is obligatory.

3. And the case does not differ by what name soever it be impos'd; *vectigal, tributum, census*, τέλος, φόρος, were the words amongst the Greeks and Latines, and did signifie portions of money paid from lands, from merchandise, for heads, *excisum quid*, something that is cut off from the whole, for the preservation of the rest; that's excise money: but whatever the words be, S. *Paul* reckons them all to be τὰς ὀφειλὰς, *due debt*; and therefore ἀπόδοτε saith our Blessed Lord, ἀπόδοτε, saith S. *Paul*, *restore*, or *pay it*; it is a debt due by the ordinance of God. It is all but *tribute*; even the *census* or pole-money is tribute: so it is called by *Ulpian*, *l.* 3 *ff. de Censibus*, *tributum capitis*, the tribute of the head. The same use of the word I have observed out of *Ammianus* and *Tertullian*. This I the rather note, that I might represent the obligation to be all one by the law of God, though the imposition be odious and of ill name amongst the people, according to that saying of *Tertullian*, *Si agri tributo onusti viliores, hominum capita stipendio censa ignobiliora*, *Fields under contribution are cheaper, and men under a tax are more ignoble*. *Angaria* is another sort of tribute; an imposition of work and upon the labours of the Subject. It is indeed the worst and the most vexatious; but it is *species tributi*, *a kind of tribute*, and due by the laws of religion, where it is due by the laws of the nation: and therefore those persons are very regardless of their eternal interest, who think it lawful prize whatever they can take from the Custome-house; whereas the paying of tribute is an instance of that obedience which is due to them that are set over us, *not onely for wrath, but also for Conscience sake*, and S. *Paul* never uses the word *Conscience*, but when it is the concern of a soul. It is S. *Ambrose* his observation, who also uses this argument, *Magnum quidem est & spiritale documentum, quo Christiani viri sublimioribus potestatibus docentur esse subjecti, ne quis constitutionem terreni Regis putet esse solvendam. Si enim censum Dei filius solvit, quis tu tantus es qui non putes esse solvendum? It is a great and a spiritual doctrine that Christians be subject to the higher powers. For if Christ paid tribute, what art thou, how great, how mighty, that thou thinkest thou art not oblig'd?*

Matth. 22. 21. Rom. 13. 7.

In Apolog.

In 1. Reg. 14. 11. q. 1. c. 28.

RULE IX.

The laws of Tribute have the same conditions, causes, powers, and measures with other laws of Government.

THis Rule requires that * the authority be supreme, that the cause be just, that the end be publick, that the good be general, that the people receive advantage. Which is to be understood of tribute which is not

** Vectigalia sine Imperatorum præcepto, neque Præsidi, neque Curatori, neque Curiæ constituere, nec præcedentia reformare, & his vel addere, vel diminuere licet*, ff. de Publican. l. 10.

Vectigalia nova nec decreto civitatum instituí possunt, Sever. C. de vectigal. nov. instit. non poss. l. 2. & Gallien. l. seq. ait, *Non solent nova vectigalia inconsultis principibus instituí.*

Placet nullum omnino Judicem de cætero Provincialibus inferendum aliquid indicere, ut ea tantum sedulo cunctorum studio pensitentur, quæ Canonis instituti formâ complectitur, vel nostra clementia decernit inferenda, vel delegatione solemniter jubente, vel epistolis præcedentibus, Constantin. l. 8. C. de excusat. mun. lib. 10.

penal, nor compensatory. For sometimes Tributes are impos'd upon a conquer'd people [a] as fetters upon a fugitive, to load him that he run away no more; or to make amends for the charges of a war. If they were in fault, they must bear the punishment; if they did the evil, they must suffer the evil; that at the charge of the conquer'd themselves also shall enjoy peace. So *Petilius* said to the Gaules, [b] *Nos, quanquam toties lacessiti, jure victoriæ id solùm vobis addidimus quo pacem tueremur*, You have provok'd us, and we have conquer'd you; and yet have onely impos'd the punishment of so much tribute on you, that at your charge we will keep the peace, So concerning the Greeks [c] *Cicero* affirms that they ought to pay some part of their fruits that at their own expences they be restrain'd from undoing themselves by Civil wars.

a Deuter. 20.

b Tacit. hist. l. 4.

c Lib. 1. ad Quintum fratr. ep. 1.

2. But then this is at the mercy and good will of the Conquerour; for the tribute he imposes upon them as punishment, he is so the Lord of it, that however he dispose of it, it must be truly paid. And the same is the case of a tribute impos'd by way of fine upon a City or Society: the Supreme power is not bound to dispense that in publick uses; and if he does not, yet the Subject is not at liberty in his Conscience whether he will pay it or no. For in this case it is not a law of *manners* but of *Empire*; and is a private perquisite of the Prince, as the Prince himself can be a private person: which because it cannot be in any full sense or acceptation of a law, but in nature onely, so neither can the tribute be of so private emolument, but it will at least indirectly doe advantage to the Publick.

3. In other tributes, such which are *legall*, *publick*, and *universall*, the tribute must be proportion'd to the necessity and cause of it; it must be imployed in that end to which it was impos'd and paid, (for that is a part of *commutative* justice) it must be equally laid; that is, as far as it can be prudently done, supposing the unavoidable errors in publick affairs in which so many particulars are to be considered (for this is a part of *distributive* justice:) and where there is a defailance in these, I mean a constant and notorious, there the Conscience is disoblig'd (as far as the excess and injustice reaches) just as it is from the obedience to other laws that are unjust; of which I have given account, * in the third Rule of the first Chapter of this Book. But this I say is true in such tributes as are of publick and common use. For those which are for the expences and personall use of the Prince, if he spends them well or ill, the Subject is not concerned; but onely that he pay it according to the law and custome. In these the Supreme power is a Supreme Lord, in the other he is but a supreme Steward and Dispenser.

4. As the laws of tribute have their originall and their obligation, so they have their dissolution as other laws have, with this onely difference, that the laws of tribute, when the reason ceases, if they be continued by custome, are still obliging to the Subject, [d] it being reason enough that the Supreme power hath an advantage by it, which cannot be so personall but that it will, like the brightness of the Sun, reflect light and heat upon the Subject.

d *Præterea cum pedagia, guidagia, salinaria tibi legatus interdixerit, authoritate Apostolicâ duximus declarandum, illa esse pedagia, salinaria, guidagia interdicta, quæ non apparent Imperatorum, vel Regum, vel Lateranensis Concilii largitione concessa, vel ex antiqua consuetudine à tempore cujus non extat memoria introducta.* Innocent. 3. de verb. signif. c. super quibusdam, §. 1.

Lastly,

5. Laſtly, in the levying and impoſing tribute, by the voice of moſt men, thoſe things uſually are excepted which are ſpent in our perſonall neceſſities. Whatſoever is for negotiation may pay, but not what is to be eaten and drank. This tribute nevertheleſs is paid in *Spain*, for it is that which they call, *Alcavala*; and in *Portugal*, where it is called *Siſa*. I ſuppoſe it is the ſame with the *Exciſe* in *England* and the *Low Countries*; and yet is much ſpoken againſt for theſe reaſons, 1. Becauſe it is too great an indication or likeneſs to ſlavery, and an uningenuous ſubjection to pay tribute for our meat and drink and the neceſſaries of life; it is every day a compounding for our life, as if we were condemn'd perſons, and were to live at a price, or die with hunger, unleſs by our money we buy our reprieve. 2. The other reaſon of the complaint made againſt this, is becauſe by this means the poor and he that hath the greateſt charge of children, and he that is the moſt hoſpitable to ſtrangers and to the poor, ſhall pay the moſt, who yet of all men ought moſt to be eaſed. And upon theſe or the like reaſons the Civil Law impos'd Gabels onely upon Merchandiſes for trade and gain and pleaſure. And of this opinion are generally all the Canoniſts and moſt of the Civilians, and very many Divines: but when Scholars come to diſpute the intereſt of Princes and the meaſures of their gain or neceſſities, they ſpeak ſome things prettily, but to no great purpoſe. In theſe and all other Caſes of this nature, Kings and Princes will doe what they pleaſe; and it is fit they ſhould, let us talk what we will, alwaies provided, that they remember they are to anſwer to God for their whole Government, and how they ſhould be enabled to make this anſwer with joy, they are to conſult with the laws of God, and of the land, and with their Subjects learned in them both: and that, above all men, Princes conſider not alwaies what they may doe, but what is good; and very often, what is beſt. * This onely. Tribute upon meat and drink is not of it ſelf unjuſt; but it is commonly made ſo: for whether the tribute be paid onely by the Merchant, as in *Caſtile* and *England*, or by the Merchant and him that ſpends them for his need, and not for his gain, as in *Portugal*; yet ſtill the poor man is the moſt burden'd in ſuch caſes: for the Merchant will ſell the dearer, and then the evil falls upon the poor houſekeeper, contrary to the intention of all good Princes; which if they will take care to prevent, I know nothing to hinder them, but that by the ſame rules which they obſerve in making other laws they may take their liberty in this.

L. Univerſi. C. de vectig. & l. omnium. C. eod.

RULE X.

Tribute, and Cuſtomes which are due, are to be paid whether they be demanded or no.

1. THis is but the reſult of the former diſcourſes. For if a tribute be juſt, it is due debt, and to be paid as any other: and humane laws doe not onely make the paying tribute to be neceſſary in the vertue of obedience, for then unleſs the law expreſſed that it ought to be paid, though it be not particularly demanded, the ſubject not demanded were free; but the laws place this obedience in the form and matter of its proper kind of vertue, it is juſtice to pay it, and that muſt not be omitted at all; for our duty is not to depend upon the diligence of other men; and if the Miniſters

of the Prince be negligent, yet we muſt not be unjuſt. This is true in Subjects and Natives; but ſtrangers are free, unleſs they be requir'd to pay: alwaies ſuppoſing, that they go in publick waies and with open addreſs. For it is preſumed that they are ignorant inculpably in the laws of the Countrey, and they are leſs oblig'd; but therefore theſe defects are to be ſupplied by the care of them that are intereſted. But if they know it already, they are oblig'd as the Natives according to the laws, and muſt not pretend ignorance, in fraud and coſenage.

2. But this alſo is to be underſtood of cuſtomes and tributes which are juſt. In which number thoſe which are of an immemorial time and long uſe ever are to be preſumed. Thoſe which are newly impos'd, may better be conſidered whether they be or no, becauſe they want that approbation which is given to the old. But whatſoever are unjuſt, doe not oblige to payment; and the Merchant may uſe all juſt waies of eſcape, and concealment. He may not lie, nor forſwear, nor deny them to be there when they are there, and he is ask'd; but he may hide them, or go into ſecret waies: and if he be diſcover'd, he muſt ſuffer as they pleaſe, but his conſcience is free.

3. He that paies not tribute upon pretence that it is unjuſt, that is, it is impos'd by an incompetent authority, or in an undue manner, or unjuſt meaſure, muſt be ſure that it is unjuſt, and not onely think ſo. For if he be deceiv'd, he does not erre with a good Conſcience, unleſs he uſe all the diligence and ingenuous inquiries that he can. His ignorance muſt not, and cannot innocently prejudice the Princes rights. If therefore he inquire well and wiſely, unleſs the injuſtice be very clear and certain, he will at moſt but doubt concerning it; and if he does, the ſurer way is to pay it: but if he does not doubt, but is fully perſuaded of the injuſtice, if he thinks true, he is innocent; but if he thinks amiſs, he is not onely guilty of a culpable ignorance, but of a criminall injuſtice.

4. If the Subject does doubt, the preſumption is for the advantage of the Prince, becauſe he is the better perſon, and publick, and he is rather to be ſecur'd then the private and the inferiour. And therefore I wonder at thoſe Lawyers and Divines that ſay otherwiſe, upon pretence that *in dubiis melior eſt conditio poſſidentis*, *The poſſeſſor is to be preferr'd in doubtfull caſes.* For ſuppoſing this, yet the Prince is in the poſſeſſion of law, and the Subject in poſſeſſion of fact: the Prince is in poſſeſſion of an actual right and law of demanding it, and therefore his condition is to be preferr'd. For in the practice of paying tribute, it is not ſufficient cauſe of omitting to pay it, that the Subject doubts whether it be, or is not ſure that it is juſt. For unleſs he be ſure it is unjuſt it is ſure that he is bound to pay. And therefore in this caſe, let no Merchant truſt his own judgment, but the ſentence of a wiſe ſpiritual Guide, or of Councel learned in the laws.

5. One thing onely I advertiſe in order to practice: let no man think that becauſe ſome ſubjects farm the Cuſtoms, and that the portion which is conceal'd does not leſſen the incomes of the Prince, therefore it may be lawfull to hide from them all which they can hide. For the Farmer hath what he gets in the right of the Prince, and in his own right he hath nothing from the Subject, but from his Supreme; who therefore is bound to defend

defend that right, and to complain of that wrong: and the husbandmen in the Goſpel who denied to pay to the Stewards of the King the fruits of the vineyard which in their Kings right were demanded of them, were thrown into outer darkneſs.

6. But then, as S. *John Baptiſt* gave counſel, the Tribute-men and Farmers muſt *exact no more then is appointed them*; nor yet in cruell and vexatious manners, nor with the exacteſt and utmoſt meaſures, but with ſuch moderation as may be far from rapine. *Tributorum & Fiſci nunquam mala cauſa niſi ſub bono principe*, was an old ſaying, Whatſoever was demanded by the Tribute-Gatherers, it was all juſtice, whether it were right or wrong, unleſs the Prince were gentle and good. But the Vulture-like greedineſs and unconſcionable, unchriſtian and avaritious proceedings which are too frequent amongſt ſuch men, have made the name of *Exactors* and * *Publicans* ſo infinitely, ſo intolerably hatefull.

* *Quid eſt publicanus? Nónne caput rapinæ, & lex violentiæ? Quid eſt publicanus? Prædo ſine pudore, medius exterminii. Nónne immanior furibus publicanus? Fur namque vel metuens furatur, hic autem delinquit confidenter. Fur laqueos tegit, timet, hic autem quicquid fecerit legem putat. Lex furem deterret ab illicitis, hic ad iniquum malitiæ ſuæ compendium legem trahit. Quis eo iniquior qui verbis juſtitiæ juſtitiam damnat, & armis innocentiæ ſpoliat, vulnerat, occidit Innocentes? lege utique legem pervertit, & dum urget ad legem, exlex eſt.* Laurent. Epiſc. Mediol. in Homil.

Curandum in primis, ne magna injuria fiat.
Fortibus & miſeris tollas licet omne quod uſquam eſt
Auri atque argenti, ſcutum gladiúmque relinques
Et jacula & galeam, ſpoliatis arma ſuperſunt.

Juvenal. Sat. 8.

It is not good to provoke the valiant by making them poor and miſerable; for they that have not a cloak may have a ſword: and by how much you make them the leſs conſiderable in peace, they are the more dangerous in war. And therefore covetous Princes are to themſelves the greateſt enemies, excepting onely their more covetous Exactors.

CHAP.

CHAP. III.

Of Kings, Princes, and all Supreme civil powers; and their Laws in ſpecial.

RULE I.

The Supreme power in every Republick is univerſal, abſolute, and unlimited.

1. THAT in every Common-wealth there is a Supreme power is without all queſtion: There is no government without ſuperiority; and where there is a Superior, there is a Supreme; for he is ſo that hath none above him. It matters not whether this Supreme power be ſubjected in one or many, whether it be parted or united: the conſideration of theſe is material as to the goodneſs or badneſs of a Government, but nothing to the power and abſoluteneſs of it, nothing to the preſent Rule. And therefore it is but a weak and uſeleſs diſtinction when we ſpeak of Kings and Princes, (by them meaning the Supreme Power) to ſay that ſome are abſolute, ſome are limited in their power. For it is true that ſome Princes are ſo; but then they are not the Supreme power. It is a contradiction to ſay that the Supreme power is limited, or reſtrain'd; for that which reſtrains it is Superior to it, and therefore the other is not Supreme. And therefore *Albericus Gentilis* ſaid well, That he doubted concerning the Kings of *France* and *Spaine*, whether they were Supreme Princes, becauſe in the affairs of Religion they are ſubject to the Pope. He that hath the Supreme power is onely under God; and to inquire concerning a King, whether he be tied to laws or conditions, is not properly an inquiry after his power, but after the exerciſe and diſpenſation of it. For though he may not alwaies uſe it, yet the Supreme power alwaies is abſolute and unlimited, and can doe what he pleaſe. The difference of a Tyrant and a King or a gentle Prince being onely this, that a Tyrant uſes his abſolute power unreaſonably and unjuſtly and ordinarily; but a King uſes it not but in caſes extraordinary, for juſt and good ends: and if the Prince does not, ſome elſe muſt, who in that caſe is the Supreme. Sometimes the Conſuls, ſometimes the Dictators, ſometimes the Senate did doe extraordinary acts of power; but ſtill they who did it had the Supreme power: and that is neceſſary, and inſeparable from Government, that, I mean, which is Supreme: ἄκρον ἐξουσίαν, κυρίαν ἀρχὴν, κύριον πολίτευμα, the Greeks call it; *Majeſtatem*, the Latins: and be it in whom, or in how many it happens, that power can doe every thing of Government, and diſpoſes of all things in order to it, and is accountable to no man. For ſuppoſe a King that hath power of the *Militia*, and his Senate of making laws, and his people by their Committees of raiſing money; this power of making war, and laws, and

and levies is the Supreme power, and is that which can doe all things: and although one be accountable for moneys, & the other ſubject to laws, and two of them under the power of the ſword, yet this is but the Majeſty or Supremacy parted, and whether well or ill, I diſpute not, yet when it is parted and when it is united, it is ſupreme, and it is all. That Government which *Ariſtotle* calls Λακωνικὴ, δοκεῖ εἶδ) βασιλεία τῆς κατ' νόμον, σὐκ ἔστ ὃ κυρία πάντων, *ſeems* (ſaies he) *to be a Kingdome but yet ſubject to laws, but is not the Miſtreſs of all*; and this is true in many European Governments: but there is another government where the Governour is πάντων Κύριος εἷς ὢν, *Lord of all, and but one perſon*; that's the perfect Monarchy: which although it be incomparably the beſt, and like to that by which God governs the world, the firſt in the whole kind of Government, and therefore the meaſure of the reſt, yet that is no greater power then is in every kind of Government; for be it where it will, ſomewhere or other in all Government there muſt be a Supreme power, and that power is abſolute and unlimited. Now this being thus ſtated, the Rule is clear, and the Jews expreſt it by an odde device of theirs: for when their King died they tied his thumb ſo in the palm of his hand, that the wrinkles of the fiſt ſhould, in a manner that might be fancied, repreſent שדי which ſignifies *Almighty*; to denote that he was God's Vicegerent, and under him had the whole power of Government. He had had in his hand a power like to the power of God, but the other hand was open and had let it go.

2. Now that this is true is apparent by all the ſame reaſons by which the neceſſity of Government is proved. It is neceſſary that it ſhould be ſo; for there are ſome ſtates of things for which nothing can provide but this *abſoluta poteſtas*, Supreme and unlimited power; as at *Rome* when the *Gauls* had almoſt poſſeſſed themſelves of all, and in many caſes of their appointing Dictators, and in ſudden invaſions, and in the inundation of tumults, and in all caſes where laws are diſabled to ſpeak or act. *Ne reſpublica aliquid detrimenti patiatur*, That the publick ſhould by all means be preſerved, in the greateſt neceſſity they can have, and that is the great end of power; and either the Common-wealth is like a helpleſs Orphan expoſed to chance and violence, and left without guards, or elſe ſhe hath ſo much power as to uſe all means for her ſafety. If ſhe have not a right to doe all that ſhe naturally can, and is naturally neceſſary, ſhe is deficient in the great end of Government; and therefore it muſt be certain ſhe hath abſolute power: now whereever this is ſubjected, there it is habitually, there it is alwaies. I do not ſay it is alwaies there where it is ſometimes actually adminiſtred; but there it is *habitually* from whence it is concredited *actually*, and put into delegation and miniſtery: and this is the power that can doe *all things of government*; and becauſe it is ſupreme, and it is ſo alwaies, it cannot be at any time leſs in judgment, becauſe it is greater in power; that is, it is accountable to no man whatſoever it does.

Qui Rex eſt, Regem, Maxime, non habeat.

3. This Supreme power is commonly expreſſed by *Poteſtas Regia*, or *Kingly Power*, or power Imperial; though when the Emperour was Lord of the world, to be a King in moſt places went much leſs: but becauſe moſt Kings have been and are Supreme in their own Dominions, (and they alwaies are ſo, and are ſo acknowledged, to whom their ſubjects are bound

bound by the oaths of allegeance, and ſupremacy) by this word we commonly mean the Supremacy or the Majeſty. So *Suetonius* ſpeaking of *Caligula*, ſaies he was very near *ſpeciem Principatus in Regnum convertere, to change the Government into a Kingdome*, that is, to make it abſolute and ſupreme: and this diſtinction *Piſo* us'd concerning *Germanicus*, *Principis Romanorum, non Parthorum Regis eſſe filium*, meaning that the *Parthian* Kings were abſolute, but the *Roman* Princes ruled with the Senate: and *Cæſar* tells that *Vercingetorix* was put to death becauſe he being but the Prince of the *Gaules* affected the Kingdome. Βασιλεὺς] αὐτοτελὴς ὄντως καὶ αὐτοκράτωρ, καὶ ἑαυτῷ καὶ τοῖς νόμων, πάντα τε εἶα βέλτιστα ποιῇ, καὶ πάντ' ὅσα ἂν μὴ βέλτιστα μὴ πράττῃ. So *Dion* deſcribed the power of a King, for that which they underſtood to be the Supreme power. Lib. 53.

Σύ τοι πόλις, σὺ δ' τὸ δήμιον,
Πρύτανις ἀκριβῶν ὤν,
Κραιπνὸς θωμὸν ἑσίαν χθονὸς
Μονοψήφοισι νώμασι σίδευ.

So the people in *Æſchylus* ſpake to their King, *Thou art our City, our Commonwealth, above all Judicatories, thy Throne is ſacred and immur'd as an Altar, and by thy ſuffrage, by thy own Will thou governeſt all things.* This is the *Jus Regium*, this the Supreme power can doe, it can be no leſs then this in its own nature and appointment. So the power is deſcribed by *Theophilus*, Πᾶς βασιλεὺς δέδωκε καὶ τῷ δήμῳ ἐξουσίαν, *He hath given to the King all power over the people.* So it is deſcribed by *Livy*, *Reges non liberi ſolum impedimentis omnibus, ſed Domini rerum temporúmque, trahunt conſiliis cuncta, non ſequuntur*, *Kings are not only free from all lets and incumbrances, but are Lords of times and things, they by their counſels draw all things after them, but follow not.* The *Greeks* call this Supremacy, δύναται ἀνυπεύθυνον ὄντα, *a power to rule without danger of being call'd to account by men*; S. *Ambroſe* calls it, *Non ullis ad pœnam vocari legibus, tutos imperii poteſtate, a power that is ſafe in its own circles, and can by no laws be call'd to puniſhment*: πρὼ πρώτην ἀρχὴν, that's *Galens* word, *It is the chief* or *prime principality.* In Arg. trag. ſupplic. Decad. 1. l. 9.

——*Toto liber in orbe*
Solus Cæſar erit——

The King alone is free; all others are under Compulſories and Judges. But S. *Peters* phraſe is better then all of them, ὑποτάσσεσθε τῷ βασιλεῖ ὡς ὑπερέχοντι. The King is the moſt eminent, the Defender of all, and above all; ὑπερέχει, ὑπερμαχεῖ, ὑπερασπίζει, ſaith *Suidas*. The King or the Supreme hath the power of defence, the power of the Sword, and that commands all the reſt: for ὑπερέχων ὑπερνικῶν, it ſignifies to be more then Conqueror. So the Grammarians.

4. But in order to Conſcience, Kings and Princes, I mean all Supreme powers, muſt diſtinguiſh *poteſtatem Imperii ab officio Imperantis*; *that* is to be conſidered by Subjects, and *this* by Princes. Supreme Princes alwaies have an abſolute power, but they may not alwaies uſe it. He that hath a Sword by him is not alwaies tied to uſe it, and he muſt cut his meat with a Knife. Κατὰ τάξιν τινὰ βασιλεία, ἡ δ' ἀόριστος τυραννίς, ſaies *Ariſtotle*; It is a Kingdome when it is by rule and meaſure, but if it be unlimited it is a Tyranny: that is, when affaires are capable of a law and order, the Supreme power muſt ſo conduct them, He muſt goe in that path where they ſtand; but if they grow wild and irregular

irregular, he muſt goe out of his way to fetch them in again.

5. But then it is alſo to be conſidered that the abſolute power of the Prince is but an abſolute power of government, not of poſſeſſion; it is a power of doing right, but not a power of doing wrong: and at the worſt, is but a power of doing private violences for the ſecurity of the publick. This power is excellently expreſs'd in the Tables of the Royal law written to *Veſpaſian*; *Uti quæcunque ex uſu reipublicæ Majeſtate Divinarum, Humanarum, publicarum, privatarúmque rerum eſſe cenſebit, ei agere, facere, jus poteſtáſque ſit, uti Auguſto fuit.* *Auguſtus Cæſar* was the moſt abſolute Prince that ever rul'd the *Roman* people; to him was granted, ſaith *Alciat*, to be free from laws, and all the neceſſity of laws, to be obnoxious to no law written, and to have all the power of Kings: and yet all that power was but to doe every thing which he ſhould eſteem to be uſefull to the publick, and according to the Majeſty of religion and all humane rights publick and private. And therefore he is *Princeps Regni*, but not *Dominus*, a Prince, not a Lord; and the diſtinction is very material. For to be *Lord*, ſignifies more then the Supreme power of Government. *Qui primi fuerunt Romæ Principes, etſi poterant videri reverâ Domini, vitabant tamen valdè Domini Nomen, veluti contumeliam ac maledictum: non vitaturi ſi eſſet Nomen ſolius honoris, aut moderatæ poteſtatis*, ſaith *Suetonius*. The firſt Princes of *Rome* eſteemed it a diſgrace to be called Lords, becauſe it was not a name of meer honour, or of a moderate power; for if it had, they would not have declined it: but it means an abſolute power to diſpoſe of all lives and all poſſeſſions; which is beyond the power of the King or Prince. He that is a King rules over a free people, but a Lord rules over ſlaves. *Tacitus*, according to the popular humor of the *Romans*, ſuppoſed the power of a King to be too great a violation of liberty; but Domination or Lording it was intolerable. *Principatus & libertas res ſunt diſſociabiles; magis tamen ſunt diſſociabiles libertas & dominatio*; for to be the abſolute Lord cannot conſiſt either with freedome or propriety: and therefore *Ovid* prefers *Auguſtus* before *Romulus* in this very inſtance, for ſpeaking to *Romulus* of *Auguſtus*, he ſaies,

De Magiſtrat.

Auguſt. 53.

Tacit. in Agric.

Tu Domini nomen, Principis ille tenet.

Auguſtus is a Prince, a gentle Governour; *Romulus* was a Lord, that is, ſomething that no man loves, but every man ſerves and fears. This power is well expreſſed by S. *Peters* word of καλακωρεύειν, a power not miniſtring to good, nor conducted by moderation.

Maximum hoc regni bonum rati,
Quod facta Domini cogitur populus ſui
Tam ferre quam laudare———

When the people muſt ſuffer the will of their Imperious Lord and muſt commend it, that is, be a ſlave in their perſons and their labours, their poſſeſſions and their underſtandings: that is more then a Prince or a gentle Lord will doe; for then the word is good, when the Man is gentle, and the Power is moderate. But that which I intend to ſay is this, that the Supreme power of Government is at no hand a Supreme power, or an Arbitrary diſpoſer of life and fortunes; but according to law, or according to extreme neceſſity which is the greateſt law of all. In the ſenſe of Honour and of Moderate power the King is a Lord, but not in this ſenſe of law. *Qui pleno jure Dominus eſt, alienandi, diſſipandi, diſperdendi jus habet*, ſaith the law, *l.* 7. *C. de relig. l. ſed etſi, lege* 25. §. *conſuluit, ff. de hæred. petit.*

By a Lord is meant he that hath power to diſpoſe of the goods of the Vaſſals: and this a King or Prince hath not. This is not the Supreme power of Government. A King is not the Lord of his Kingdome, of the territories of his Subjects, *quia dominium in ſolidum non poßit eſſe duorum*, ſaith *Cujacius*, There cannot be two abſolute Lords of the ſame land; The right owner is the Lord, not the right King. *Aliter reipublicæ ſunt agri, aliter privatorum. Num quid dubium eſt, quin ſervus cum peculio Domini ſit? dat tamen Domino ſuo munus. Non enim ideo nihil habet ſervus, quia nihil eſt habiturus, ſi Dominus illum habere noluerit*, ſaid one; The ſervant is within his Lords peculiar, but yet he can make a preſent to his Lord. If his Lord pleaſe, the ſervant ſhall have nothing; but yet it follows not, that therefore he is poſſeſs'd of nothing. Now if this be true in Slaves, much more infinitely more is it in free Subjects; for otherwiſe are my lands my own, otherwiſe they are the Princes. *Jure civili omnia Regis ſunt*, (ſaith *Seneca*;) *& tamen illa quorum ad Regem pertinet univerſa poſſeßio, in ſingulos Dominos deſcripta ſunt*, By the law all things are the King's; but even thoſe things are divided into peculiars, and have private Lords. It is all the Princes lands, and he receives the tribute, and he receives the ſervice and the duty of them all; but the Lords receive the rents. The *Athenians* and the *Thebans* fight concerning the bounds of their territory; & at the ſame time *Polyænus* & *Thyſias* are at law about dividing their ſhepherds walks in the ſame place. *Sub optimo Rege, omnia Rex Imperio poßidet, ſinguli dominio*, The King governs all, but the Subjects poſſeſs all their own: for ſo *Livy* might buy his own Books of *Dorus*; they were *Dorus* his Books, and *Livy*'s too: and when a Lord receives his rent, the Tenant may call the lands his own. Some things are mine by poſſeſſion, ſome by uſe; ſome by title, ſome by incumbency; one is the Author, and another is the Buyer; one is an Artificer, and another the Merchant of the ſame thing; and the King hath the power, but his Subjects have the propriety. *Cæſar omnia habet; fiſcus ejus privata tantum ac ſua: & univerſa in Imperio ejus ſunt, in patrimonio propria.* That's the ſum of this inquiry. The King hath all, and yet he hath ſomething of his own in his peculiar, and ſo have the Subjects.

Lib. 7. De benef. cap. 4.

Ibid. cap. 5.

Cap. 6.

6. The effect of this conſideration is this; That the Supreme power muſt defend every mans right, but muſt uſurp no mans. He may uſe every mans peculiar for the publick neceſſity, and in juſt and neceſſary Government, but no otherwiſe; and what is out of any peculiar expended for the publick defence, muſt out of the general right be repaied for the private amends. *Verum etſi noſtra tempore neceſſitatis patriæ conferre debemus, tamen jure naturæ congruit ut communis ſalus, communis utilitas, commune periculum, non unius duntaxat aut alterius, ſed communibus impenſis, jacturis, periculiſque comparetur*, ſaid *Cicero*. A King is to govern all things; but to poſſeſs nothing but what is his own. Only concerning the neceſſity, if the queſtion be, *who ſhall be Judge*; it is certain that it ought to be ſo notorious that every man might judge; but he who is to provide againſt it, is certainly the only competent perſon, and hath the authority. For he that is to ſtand againſt the ſudden need, ought to eſpy it. But if ever there be a diſpute who ſhall judge of the Neceſſity, it is certain, the Neceſſity is not extreme; and if it be not, yet it ought to be provided againſt when it is intolerable. *Ahab* had no right to take *Naboths* Vineyard; but if the *Syrian* army had invaded *Iſrael*, *Ahab* might have

4. ad Herennium.

put

put a Garriſon in it, or deſtroyed the Vines, to have ſav'd or ſerv'd his Army.

7. And to this ſenſe *Lyra* expounds the *Jus Regium*, the right of the King, deſcrib'd by *Samuel* to the People of *Iſrael*: for (ſaith he) there is a double right; the one in the dayes of neceſſity, and then all things are in his power ſo far as can truly ſerve that publick neceſſity: but when that neceſſity is over, that right is uſeleſs, and is intolerable. And by this means the different opinions of the Jewiſh Doctors may be reconcil'd. *Rabbi Joſe* ſayes, that whatſoever is here ſet down, it was lawfull for the King to doe. *R. Juda* ſayes, that this deſcription was only to affright the People from perſiſting in their deſire of a King. Both might ſay true; for that it was not lawfull in ordinary Government to take the peculiar of the Subject, appears clearly in the caſe of *Naboth*. But that in extraordinary it is juſt, needs no other argument but becauſe it is neceſſary: and it appears alſo in the caſe of *David* and *Nabal*, upon whom *David* would have done violence, becauſe he ſent him not Proviſions for his Army out of his own peculiar. But it is conſiderable, that this Royal power deſcrib'd by *Samuel* is no more then what is neceſſary to be habitually inherent in all Supreme powers; this is *poteſtas imperantis*; he may *licitè facere in tempore neceſſitatis*, *legitimè ſemper*, In time of need he may uſe it lawfully, but alwayes legitimately, that is, if he does, he onely abuſes his power, but it is his own power which he abuſes: for when *Moſes* deſcrib'd the uſage and manner of a King, he did it by the meaſures of peace and piety, and the laws of natural juſtice and equity, with the ſuperfetation of ſome poſitive conſtitutions which God commanded for that King, as part of the Judicial Law. But when *Samuel* deſcrib'd the manner of their King, he deſcrib'd the whole power in ordinary and extraordinary; *the power*, I ſay, but *not the office*: *Moſes* deſcrib'd *the office*, but *not the power*.

1 Sam. 8.

Deuter. 17.

8. I adde to this another conſideration; That whether all that the Hebrew King did or might doe was warranted by God or no, it matters not to us. For if it be no more then the neceſſary requiſites of Supreme power to be us'd in time onely of neceſſity, we need not fear that this precedent can injure the rights of any People: but if there were in it ſomething more then was good, it was certainly a peculiar of that People, who deſir'd a King to rule over them as the neighbour Nations had; right or wrong they ſtood not upon that; and therefore *Samuel* deſcrib'd to them what that was which they requir'd. It was no warranty to the King to doe ſo, but to the People to ſuffer it: but if it was ill, it was their own deſire; for ſo the neighbour Kings did govern, uſing too much of their power, and too little of their duty and office. And therefore God was angry with his People, not that they deſir'd a King; for God gave them three things in charge, ſay the Rabbins, which they ſhould doe when they came into the Land of Promiſe, That they ſhould blot out the name of *Amalek*, that they ſhould chuſe a King, that they ſhould build a Temple. Therefore the chuſing of a King was not it that offended God, but that they ſhould deſire that a King ſhould reign over them in the manner as the Gentiles had: For they thought (ſaith *Joſephus*) ὐδὲν ἄτοπον εἶ) τὴν πλησιοχώρων βασιλευομένων τ αὐτοῖς ἔχειν αὐτὸς πολιτείαν, *that all would be well if they had the ſame form of Government as the Nations had.* Now their neighbour Nations were go-

vern'd the moſt tyrannically, and the People ſerv'd the moſt ſlavishly in the whole World.

——— *dociles ſervire Sabæos,*

The Sabeans (ſayes *Claudian*) were apt to ſerve: *dociles herilem ferre manum Syros & Parthos, & omnes qui aut ad Orientem aut ad Meridiem ſunt barbaros,* ſaid *Julian*, All the Syrians and Parthians, and all the Nations of the East and South, were us'd to ſlavery; *contentos ſub Regibus vivere Dominos imitantibus*, their Kings were abſolute Lords of poſſeſſions as well as of tribute and government; and the People were pleas'd to have it ſo: and the Iſraelites would follow their example. *Ecce in hoc errarunt* (ſayes a Jewiſh Doctor) *quod Iſraelitarum conditio non eſt, ut judicet eos Rex aliquis pro ſua voluntate, ut Imperatores Gentilium, qui ſanciunt populis ſuis leges, quaſcunque animis concipiunt.* Their errour was in deſiring ſuch a King as the Gentiles had; for their condition would not ſuffer it that their King ſhould make laws according to his own will and humour, as did their neighbour Kings, who were proud and barbarous, and counted eaſineſs of acceſs a leſſening of Majeſtie, and would be bound by no meaſures but their own will: and therefore ſaid God to *Samuel*, *They have not rejected thee, but me*; that is, they would have a King, not ſuch as I have commanded in my law, but ſuch as they ſee among their Neighbours, who make laws themſelves without me. And therefore although God commanded *Samuel* to hearken to them, and make them a King; yet by terrours, like thoſe on Mount *Sinai*, he firſt made them confeſs their fault, and therefore to ſubmit to a King of God's chuſing, who ſhould reign by God's law.

Contr. Chriſtian.

9. So that it is to no purpoſe that this place hath been ſo tortur'd by Interpreters, and pull'd in pieces by diſputation; while they contend on one ſide, that this was a deſcription of the King's power, on the other, that it was a prediction of matter of fact: for it was neither one nor the other alone, but a deſcription of the manner of the Heathen Kings; and a repreſentment of what it was which they ask'd, and what was like to be the effect of that power which they deſir'd God would ſet over them: but the queſtion of the extent and liberties of the Supreme power is no way concerned in it. For it matters not what the Eaſtern and Southern Kings did; for they did that in ordinary, which is not to be done but in caſes extraordinary; they did that for pleaſure, which was not to be done but for neceſſity. But as to the thing it ſelf; Nothing can be more certain, but that 1. In all Republicks, ſomewhere or other, there is a Supreme power. 2. That this power can doe all things of Government; ſo that nothing is ſo great, but if it be neceſſary, it is juſt, and can be done: for if there were any time, and any caſe in which evil may happen, and no proviſions may be made for it, in that caſe, and at that time it is an Anarchy, there is no Government at all. 3. That this Supreme power, being a power of Government, muſt alſo be a Conſervator and great Miniſter of Juſtice; and therefore muſt ſuppoſe every man's right to be diſtinct, and ſeparate, and firm: and by conſequence, that he hath nothing to doe with mens propriety, but to defend them in peace, and uſe them in war ſo as is neceſſary, that is, ſo as is unavoidable; according to that ſaying of *Maimonides*, *Poteſtatem habet Rex ordinandi mundum juxta id quod præſens hora poſtulat.* There are ſome ſudden accidents againſt which there are no regular proviſions in laws; but to provide for them at the inſtant by extraregular means,

means, is within the power of the ſupreme. But in all this whole queſtion the ſaying of *Baldus* is the beſt meaſure of the conſciences of Princes: *Clauſula de plenitudine poteſtatis ſemper intelligitur de poteſtate bona & laudabili*, The plenitude of power of all things in the world ought the leaſt to be fear'd, becauſe it never is to be us'd but for the greateſt good. 1 Conſil. 245.

Upon the occaſion of this diſcourſe the Lawyers ſometimes diſpute,

10. Whether it be lawful, and in the power of the Supreme Prince or Magiſtrate, to aliene or leſſen his princely rights, or to give away any parts of his Kingdome.

11. But to this the anſwer is eaſy. For 1. whatſoever is their right by juſt conqueſt, or is ὲν μέρει κλήσεως ἰδίας, in their private poſſeſſion, they may aliene as any private perſon may his lands. Thus *Solomon* gave the חבל twenty cities (which his Father in law the King of *Egypt* had conquer'd and given him with his wife in dowry, and which himſelf had won) to *Hiram*. *Alexander* gave all his Kingdomes to his Princes that ſerv'd him in his warrs. *Attalus* gave *Aſia* to the people of *Rome*; *Nicomedes* gave *Bithynia*: the Father of *Mithridates* had *Paphlagonia* by gift: & in *England* it was ſaid that *Edward* the Confeſſor gave *England* by Will to the baſtard of *Normandie*: and divers of our Kings did in their Wills at leaſt recommend a ſucceſſor; *Edward* the ſixth did, but it came to nothing. But when the Donor or the Donee reſpectively can make it good, then it holds in law, and not otherwiſe; for queſtions of this nature us'd to be determin'd by the ſword, and not by diſcourſes.

12. 2. But yet this is certain, that where the Princes are truſtees of the people, and elective, or where the right of ſucceſſion is in a family by law or immemorial time, no Prince can prejudice his Heir, or the people that truſted him. Nothing is here to be done without conſent, not onely becauſe the alienation cannot be verified againſt conſent [in which caſe *Charles* the ſixth of *France* deſir'd his will might be confirm'd by the Nobles; and the King of *Macedonia* went up and down to all the cities to recommend to them *Antigonus* whom he deſir'd to make a king:] but becauſe in theſe caſes, though Kings have the ſupreme power, yet they have it not *pleno jure*, by a fulneſs of dominion. It may be as *Ariſtotle* calls it παμβασιλεία, παγκελὴς, αὐτοκράτης καὶ ἀνυπόδυτος βασιλεία, a full, ſupreme, abſolute and intire principality; yet by not being in full and intire private poſſeſſion it is by all rights to be adminiſtred, but without wrong cannot be alien'd. *Hottoman* will by no means admit that in any caſe a Kingdome can be alien'd: becauſe it is the caſe of perſons as well as of things; and they cannot be diſpos'd of like ſlaves or beaſts. But he conſider'd not that ſubjection to Princes can beſt ſtand with perſonal liberty; and this cannot well be ſecur'd without that: for where there is no civil government, every man that is ſtronger can make me a ſlave; but by the power of a Prince I am defended in my liberty: and *Hottomans* objection muſt needs be invalid, unleſs there be no liberty but where there is no government. Illuſt. Quæſt. 1.

Rule II.

The Supreme power is ſuperior to the Civil laws, but not wholly free from them.

1. THis Rule hath been thruſt into great difficulty by the intereſts and miſtakes of Princes and Subjects reſpectively. For it hath been diſputed whether Princes be free or no from the laws of their kingdome; and things of this nature when they once are queſtion'd, are held more pertinaciouſly, and deſir'd more greedily, and poſſeſs'd ſuſpiciouſly, and conducted with jealouſy, and look'd upon with envy or indignation. For the Prince, if it be but diſputable, will yet conclude for his own intereſt; and it is argument enough for him that it is ſo, becauſe it is not certain that it is not ſo. And the ſubjects will upon the ſame account ſuppoſe the Prince bound to his laws, becauſe they know nothing to the contrary; and therefore they preſume for the authority of the laws, as the Prince does for the immunity of his perſon. But then becauſe it is queſtion'd, the Prince, leſt he looſe it quite, will hold the faſter; and the people will ſnatch at it more impotently, leſt they be ſlaves for ever. And therefore diſputations in this caſe are not prudent or ſafe; but precepts, and ſermons, and great examples, and the ſayings of wiſe men, and poſitive affirmations in thoſe particulars that be manifeſt.

2. *Princeps legibus ſolutus eſt*, ſaid *Juſtinian*, The Prince is not tied to laws: for it ſeems impoſſible that he that hath power over the law, he that gave it being, and can give it a grave, ſhould be leſs then that which hath no greatneſs but what it borrows from him. Indeed if the Prince had deveſted himſelf of his power when he made the law, he had been ſubject to it; but then he could have no power to abrogate it: which becauſe it is inſeparable from the legiſlative power, it follows that the life of the law is in continual dependance from, and therefore in minority and under him; and therefore the lawyers have a proverbial verſe,

Inſtit. d. tit. 2.

Non eſt Rex legi, ſed lex obnoxia Regi.

For a law without a compulſory power is nothing but good counſel at the beſt; and the ſupreme power cannot be compell'd: for he will not compel himſelf, he cannot; he may be willing, but he can never force himſelf; and to the ſupreme no man is ſuperior, and therefore none elſe can compel him: therefore the Divines uſe to ſay, and ſo doe the Lawyers too, that Kings are ſubject to the directive power of the laws. The diſtinction I acknowledge, but believe it here to be to no purpoſe: for laws have no ſuch power, and a directive power is no power; for if it can onely direct, it is not a law, for a law obliges, and does not onely direct: and as for the meer matter of counſel, the Prince need not be at the charge of a law for that, his Counſellors, his Biſhops, his Lawyers, his friends can doe that without a law. The ſame thing is uſually ſaid concerning juſt men. *Juſtis lex non eſt poſita*, ſaith the Apoſtle, The law is not made for the righteous, but for the wicked: that is, the compulſory of laws is not at all deſigned for them that obey without compulſion. Not but that the juſt are under the power of laws, and the laws were made to command them the particulars and the inſtances of obedience; and if they prevaricate, they ſhall feel

feel it. But they are ſo willing to obey, and ſo love government and the vertues commanded by the laws, that the laws are of no uſe to good and juſt men, but to direct them to what is requir'd of them; and ſo they are under that which is improperly call'd the *Directive power* of laws; but Princes are not ſo. The Supreme power may if he will obey; ſo may the juſt man: but this man muſt obey or he ſhall be puniſhed, but not ſo the Prince. The laws of themſelves may direct the Prince; but it is becauſe he will have it ſo: but they direct the juſt, becauſe they have authority to command, and to puniſh, onely that the juſt will not let it come ſo far. It is but a ſhadow of liberty to ſay I am not under the compulſion, but the direction of laws: for ſuch perſons if they will not be directed ſhall be compell'd, and it is better to be willing then unwilling; for call it what you will, you are commanded to doe it, and you muſt obey. Now this being the caſe of the juſt ſubject, and not the caſe of the Supreme power, whether juſt or unjuſt, it is clear that the Prince or ſupreme power is not ſubject to any power of the laws; the law is no Commandement to the Prince, and whatſoever is nothing but counſel, is no law.

3. And yet on the other ſide we find good Princes ſaying otherwiſe; and they who are apt enough to advance their own power, yet confeſſing their power to be leſs then the law, that is, that themſelves are bound to keep it: ſo ſaid the Emperour, *C. de legib. & conſtit. l.* 4. *Digna vox eſt Majeſtatis regnantis, legibus alligatum ſe Principem profiteri*, It is a voice worthy of the Majeſty of a Prince, to profeſs himſelf tied to his laws. *Patere legem quam tu ipſe tuleris*, ſaid the wiſe man; Suffer the law which thou thy ſelf haſt made: the ſame with that of *Pittacus*,

Pareto legi quiſquis legem ſanxeris.

And the equity of this, beſides that it is apparent, is alſo given in the law, *l.* 1. *ff. de pactis. Nihil tam humanæ fidei conſentaneum eſt, quam ea quæ placuerunt ſervari.* If they have pleas'd the Prince in the ſanction, let them alſo pleaſe him in the obſervation, for that's agreeable to the faith and ingenuity of worthy perſons.

4. Theſe things are but ſeemingly oppos'd, for both parts are true, and are to be reconcil'd by the following meaſures.

5. 1. The Supreme power is not under the fear of the laws, but is to love the vertue and order that is there commanded. For there is a neceſſity introduc'd by publick honeſty as well as by fear. And therefore the Greek Lawyers in their Commentaries upon that of the Inſtitutions, that the Prince is free from laws, expound it to be meant of penal laws; that is, they cannot be puniſh'd for prevaricating, or for not keeping them: and *Decianus* ſaid the ſame thing, *Non quia iniqua liceant, ſed quod non timore pœnæ, ſed amore juſtitiæ:* It is no more lawful for Princes to doe unjuſt things, then for their ſubjects; but they are invited to doe worthy things, not becauſe they are to fear the puniſhment of laws, but becauſe they muſt love juſtice; and there is that neceſſity for them to doe ſo, that there is of being great and honour'd. The laws of honeſty, of fame and reputation, which amongſt all good men are the guards of vertue, muſt endear it alſo to Kings: ſo *Claudian* to *Theodoſius*,

Tu licet extremos late dominere per Indos,
Te Medus, te mollis Arabs, te Ceres adorent;

Si metuis, ſi prava cupis, ſi duceris irâ,
Servitii patière jugum, tolerabis iniquas
Interius leges: tunc omnia jure tenebis
Cum poteris Rex eſſe tui: proclivior uſus
In pejora datur, ſuadetque licentia luxum,
Illecebriſque effræna favet: tunc vivere caſtè
Aſperius, cum prompta Venus; tunc durius iræ
Conſulimus, cum pœna patet: ſed comprime mentem,
Nec tibi quod liceat, ſed quod feciſſe decebit,
Occurrat, mentemque domet reſpectus honeſti.

A King is not to conſider the greatneſs of his power, but of his duty; and not reckon upon his impunity, but his reputation *; and becauſe he does not fear the publick rods and axes, let him reſpect publick honeſty: ſo *Accurſius* affirms, *Principem, etſi legibus ſolutus ſit, honeſtatis tamen neceſſitate omnino teneri oportere:* and this is the ſentence of *Decius* and moſt Lawyers. But *Honeſtas non videtur inferre neceſſitatem*, ſay the Lawyers. This does not make it ſimply neceſſary; but it perſwades vehemently, and upon Princes whoſe honour is both conſcience and intereſt too, it differs but little from it. For it makes that they *ought to doe* what is fit. But in Kings it is true what *Muſcornus Cyprius* ſaies, *Verbum illud* [*debet*] *non coactionem, ſed rationalem quandam perſuaſionem denotare videtur.* It is their duty, and they ought to doe it; and that ſignifies every thing but compulſion. However a Prince is onely free from one compulſory which is upon his ſubjects: but is under many which touch not them. God enjoyns him a greater duty, and exacts it with greater ſeverity, and will puniſh their delinquencies more ſharply: *potentes potenter*, ſaith the Wiſdome of *Solomon*, *mighty men ſhall be mightily tormented*; and *Tophet is prepared for the King.* * Kings have a greater need in their affairs then the ſmall fortunes of their ſubjects; and therefore have need of a greater piety to ſecure ſo great a providence. They have more to looſe, and therefore need a bigger caution to ſecure it; they have more at ſtake to endear obedience: and ſince a King is but one perſon, and is ſtrong onely by the obedience of his ſubjects, and that obedience is ſecur'd onely by love, and that love can no way be obtain'd but by beneficence and juſtice; if he breaks theſe ſecurities, he may have cauſe to conſider that of *Tacitus, Princeps unus eſt civium & ſenatus conſenſui impar*, that one man againſt a multitude is nothing; and that the Senate and the people are ſtronger, and need not fear him alone, but he alone may have cauſe to fear all them together *; and that the ſins of a Prince are often puniſhed by the ſins of the people. He can conſider that he is to govern a multitude whom nothing can unite but an Almighty power; that they are as contingent in their love and hatred, as chance it ſelf; that no fortune in a King is moderate; that when it declines it oftentimes runs to extremity; that he ſeldome hears truth, never meets with a bold and a wiſe reprover; that he hath many flatterers, and but few friends; that he hath great powers of doing evil, and temptations and opportunities alwaies ready; that his very being ſuperiour to laws leaves his Spirit infinitely unguarded and ſpoil'd of one of the greateſt ſecurities of vertue; that impunity is a ſtate of danger; that when vertue is left onely under a Counſel and cold recommendation, and is not made neceſſary by laws, he had need have a great and a mighty vertue to make it neceſſary by love and choice; and that ſuch perfect vertues are but rarely obtain'd, and after a long practice; that fear is the beginning of wiſdome;

and

* *Veſtri conſilii, veſtræ prudentiæ eſt præſtare quid deceat vos, non quantum liceat.* Cic. pro Rabirio.

Hieron. Muſcornus tract. de Jurisdict. & Imp.

Principes qui Superiorem non habent, plus puniuntur à Deo, & itaque caveant ſibi, ne peccent. Caſtr. 11. C. de jud.

* *Vindicta certè maxima in nobis ſita eſt. Cogunt timere? odiſſe rurſum poſſumus: Juſta odia ſuperant omne vindictæ genus.* Meurſi.

and therefore Princes are very much to ſeek in this particular, becauſe they have nothing to begin with; and to chuſe vertue for love is not uſual with beginners, but is the conſummation of the moſt perfect: ſo that we may well pray, *God help poor Kings*, who if they doe vertuouſly muſt needs be infinitely dear to God, becauſe it is ſo extremely difficult to be ſo, and nothing can make them ſo but two conjugations of miracles; the excellencies of the Spirit of God, and the Spirit of a King. So that it is no priviledge to Kings that they are above the power of their laws; it is their objection, and the evil of their ſtate. Only it is neceſſary to others that theſe ſhould dwell in danger: and as for their obedience to laws, it is not bound upon them by the ſame cord that ties the Subject, but by another; it is not neceſſary for the ſame reaſons, but it is by a greater neceſſity.

6. 2. But then theſe ſupreme Compulſories being wholly conducted by the hand and providence of God, doe plainly tell us that the ſupreme Power is obliged to all the laws of God, to the laws of Nature and Chriſtianity. A King hath no power to govern but according to Gods laws. For if he does, though he have no Compulſorie below, yet above there are enough, and to Gods laws the greateſt Power on Earth is intirely ſubordinate. Ὁ νόμος πάντων βασιλεὺς θνητῶν τε καὶ ἀθανάτων, ὡς φησι Πίνδαρος, *The Law is the ſupreme King of all*, ſaid *Pindar*. The ſame is alſo ſaid by *Chryſippus*, by *Ariſtotle*, and divers others: and *Plato* affirms that deſtruction is imminent upon that City where the Magiſtrate governs the law, and not the law the Magiſtrate: and again, Ἄνομος μοναρχία χαλεπὴ καὶ βαρύτατη ξυνοικῆσαι, The Prince that rules not by laws is nothing but a grievance to his Subjects. But that theſe great Perſons mean the laws of God and Nature is explicitly plain in *Plutarch*, who having affirmed that the law muſt rule the Prince, adds by way of explanation, that it be that law, οὐκ ἐν βιβλίοις ἔξω γεγραμμένος, ἐπὶ δέ πασι ξύλοις, ἀλλὰ ἔμψυχος ὢν ἑαυτῷ λογος, αἰεὶ συνοικῶν καὶ συμφυλάττων, καὶ μηδέποτε τὴν ψυχὴν ἐῶν ἔρημον κηδεμονίας, *not which is written in books or tables, but the law of reaſon that alwaies dwells within; that law that alwaies is his guard, and never ſuffers the ſoul to be without a guide*, that is the law that is ſuperior to Princes. Some little inſtances of particulars of this law were decreed by *Servius Tullus* King of the *Romans*; of which *Tacitus* ſaies, *præcipuus Servius Tullus ſanctor legum fuit, queis etiam Reges obtemperarent; he made laws of that Nature that even Kings themſelves ſhould obey them.* For as

Regum timendorum in proprios greges,

So it is as true,

Reges in ipſos imperium eſt Jovis;

As the people are Subjects of the Prince, ſo is the Prince of God; they muſt obey their King, and their King muſt obey God: Concerning whoſe Law it was ſaid to *Domitian* by *Apollonius Tyanæus*, *Hæc mihi dicta ſint de legibus, quas ſi tibi imperare non putaveris, ipſe non imperabis, If thou doeſt not think theſe laws ought to rule over thee, thou ſhalt not rule at all.*

Lib. 4. de leg.

Lib. de regno

Apud Philoſtratum.

7. Upon this account a Prince may not command his Subjects to fight in an unjuſt cauſe, according to that ſaying of S. *Hierom*, *Cum Dominus carnis à Domino Spiritûs adverſum imperat, non eſt obediendum*; We muſt not obey the Rulers of this world, the Lords of our fleſh, when they command any thing contrary to the laws of the God and Lord of all Spirits.

In Eph. 6.

The

The commands of Princes muſt be, as *Tertullian* ſaies, *intra limites diſciplinæ, within the bounds of our religion*; and therefore the *Athenians* laugh'd at *Stratocles* for deſiring them to make a law that whatſoever pleas'd King *Demetrius* ſhould be the meaſure of piety to the Gods, and of juſtice amongſt Men. Gods law is the meaſure of the Princes power; not his will the meaſure of that: and therefore the *Jews* that were Souldiers under *Alexander* could by no tortures be compell'd to aſſiſt in the building of the temple of *Belus* in *Babylon*; and the *Thebæan* legion under *Julian* the Apoſtate refuſed not to fight for their Prince againſt the Barbarians, and they refuſed not to die, but they refuſed to be executioners of the Martyrs that died in the cauſe of Chriſtianity.

8. But this is to be practiſed that the Princes juſt laws be not neglected upon the arreſt of every fancy or fooliſh opinion. If it be certain that it is againſt the law of God, then we are ſafe in our diſobedience. *Idcirco Romanas leges contemnimus, ut juſſa Divina ſervemus*, ſaid *Sylvanus* the Martyr, Becauſe we are ſure theſe *Roman* laws are againſt the Commandements of God, we eaſily deſpiſe them. But if we be not ſure, but are in doubt whether the laws be juſt or no, we are to preſume for the laws, and againſt our own fears. For nothing is at all of advantage due to the laws, if we preferre before them any opinion of our own which we confeſs uncertain; and although we are not to doe any thing of which we doubt, yet in a doubt we are to obey laws, becauſe there is a doubt on both ſides: and as we fear the thing is unjuſt, ſo we have reaſon to fear the evil of diſobedience, for we are ſure that is evil; and therefore we are to change the ſpeculative doubt into an active judgment, and a practical reſolution, and of two doubts take the ſurer part, and that is to obey; becauſe in ſuch caſes the evil, if there be any, is to be imputed to him that commands, not to him that obeys, who is not the Judge of his Prince, but his Servant. *Servus herilis imperii non Cenſor eſt, ſed Miniſter*, ſaid *Seneca*. They that are under authority are to obey, not to diſpute. But of this I have given an account already in the firſt Book, Chap. 5. Rule 6.

In Martyrol. Rom.

9. 3. But then concerning the civil laws of his Country we are to diſtinguiſh; for ſome concern the People only, and ſome concern the Prince only, and ſome are common to both. Thoſe that concern the People are ſuch as require tribute, and labours, and manners of trade, their habits and dwelling. In theſe and all ſuch the people are obliged and not the Prince: for the duties are either relative and concern their part only of the relation; or elſe by the nature of the things themſelves doe point out their duty, & in theſe things there is no queſtion. For not the King but the people are to pay tribute, & the Kings lands are free, if they be in his own poſſeſſion.

10. 4. But there are ſome laws which concern the Prince alone, as all acts of grace, and eaſe to the people; all that he hath been pleaſed to promiſe, the forms and laws of Government, and to whatſoever himſelf hath conſented, by all thoſe laws he is bound; becauſe in ſuch caſes as theſe it is true what *Pliny* ſaid to *Trajan* in his *Panegyric*, *In noſtris, ſimili religione, ipſe te legibus ſubjeciſti, Cæſar, quas nemo Principi ſcripſit; ſed tu nihil amplius vis tibi licere quam nobis*. The Prince had not a law impoſed upon him, but he became a law unto himſelf; and when he hath bound himſelf there is the ſame neceſſity upon him as upon his Subjects.

5. Other

11. 5. Other laws yet doe concern both Prince and people; ſuch as are all contracts and bargains. *Licet ſerviant ædes meæ, ei tamen cum quo agitur non ſerviunt, quantum enim ad eum pertinet, liberas ædes habeo.* l. 4. Si ſerv. vind. *Although my houſe is bound to ſerve the publick neceſsity, yet in reſpect of him that contracts with me, my houſe is free.* So alſo it is in the acquiſition of new rights, the repetition of the old, and generally in all thoſe things that are eſtabliſhed by the law of Nature, or doe concern him perſonally, and not in the capacity of a King. Thus ſaith the law, *In imperfecto teſtamento nec Imperatorem hæreditatem vendicare poſſe ſæpe conſtitutum eſt, The Prince cannot be heir if the teſtament of the dead man be illegal.* Sometimes and in ſome places, it may be, fewer witneſſes will ſerve in the Princes caſe then in another mans, but then it is becauſe fewer in his caſe are required by law; but ſtill the law is his meaſure as well as of his Subjects.

l. 3. C. de teſta. l. 6. C. qui teſt. fac. po.

12. 6. The great *laws of the Kingdome* doe oblige all Princes, though they be ſupreme. Such were thoſe which were called the laws of the *Medes* and *Perſians*; whoſe Princes, although they were the moſt abſolute and ſupreme, yet they were inferiour to thoſe laws, as appears in the Book of *Daniel*. Theſe are by way of eminence call'd *Leges Regni*, *the Kingdomes laws*. Such are the *Golden Bull* of the Empire; the *law Salic* and the *Pragmatical Sanction* in *France*; the *Magna Charta* and the *Petition of Right* in *England*; and in other Countryes the like, as who pleaſe may particularly for *Spain* ſee in *Mariana*. This is confeſs'd by all, and it relies upon natural juſtice, the Prince having conſented to it; it is either *ſponſio Principis*, or *conditio regnandi*; he was admitted either upon that condition, or with it.

Lib. 20.

13. 7. Whatſoever the Prince hath ſworn to, to all that he is oblig'd not onely as a ſingle Perſon, but as King: for though he be above the laws, yet he is not above himſelf, nor above his oath, becauſe he is under God; and he cannot diſpenſe with his oath or promiſe in thoſe circumſtances and caſes in which he is bound. And therefore although the Prince is above the laws, that is, in caſes extraordinary and priviledg'd caſes, and the matter of penalties; yet he is ſo under all the laws of the Kingdome to which he hath ſworn, that although he cannot be puniſh'd by them, yet he ſins if he breaks them. Not that the law does binde him, for it cannot binde without a compulſory; and againſt him the law hath no ſuch power: but yet he is bound *to the law*, though not *by it*; the obligation comes not from the law, but from other cauſes, from his promiſe, his oath, his contract, his religion, his reputation, his fear, his hopes, his intereſt, and eſpecially from God himſelf. For it is carefully to be obſerved in this particular, that though a promiſe gives a man right to the thing which is promiſed, it does not alwayes give him a right over the perſon. A King is like him that promiſes a thing under a curſe; if he fails, the injur'd perſon is not to curſe him, or to inflict the curſe upon him, but that is to be permitted to God alone. And therefore if a King ſwears to his People to make no law without their conſent, he is bound to perform his word; but if he does not, God, and not they are to puniſh the perjury. The King's promiſe, or ceſſion, or acts of grace doe never leſſen or part his power, but they tie his perſon. An Act of Parliament in *England*, if it be made with a clauſe of perpetuity, that if an act ſhould be made to reſcind it it ſhould be void, that firſt Act of it ſelf is invalid. *Clauſula deroganti ſi derogetur, valet*

valet ut poſterius teſtamentum, ita poſterior conſtitutio, ſay the Lawyers. Concerning which *Cicero* hath written an excellent epiſtle to *Atticus*, *lib. 3. epiſt. ad Attic. epiſt. 24.* It is as if a man ſhould make a Will to annull all future Wils of his own; it ſhews indeed that he had then a mind to have that to be his ſtanding will: but how if his mind change? *Conſtantine* made a law, that Widows and Orphans ſhould not be cited to the Emperour's Court for judgement, or compelled to come, though he himſelf ſhould command them: but yet if he did command them, that firſt reſcript ſtood for nothing. *Antiochus* the third commanded the Magiſtrates not to obey him if he commanded any thing againſt the laws: but if he ſhould command any ſuch thing, it were not ſafe for them to urge himſelf againſt himſelf. The Roman Emperour bade his Officer uſe his Sword againſt him if he broke the laws: but this gave him no power over his Prince in caſe he had gone againſt the laws; it is nothing but a confident promiſe, and an obligation of his honour and his conſcience, of which God alone is the Superiour and the Guardian.

14. The cuſtome of ſupreme Princes ſwearing to govern by laws was very antient: we finde an example of it amongſt the Gothiſh Kings in *Caſſiodore*; amongſt the late Greek Emperours in *Zonaras* and *Cedrenus*. *Anaſtaſius* the Emperour ſware to obſerve the decrees of the Council of *Chalcedon*; *Adrian* the Emperour ſware that he would never puniſh a Senator but by the ſentence of the Senate; and *Trajan* having promiſed to rule with juſtice and clemency, conſecrated his head and right hand to the anger of the Gods if he broke his word: and *Plutarch* tels, that the Kings of the *Coſſari* ſware to the *Epirots*, that they would govern according to the laws. And indeed abſtracting from the oath and promiſe, Kings are bound by natural juſtice and equity to doe ſo: for they are not Kings unleſs they govern; and they cannot expect obedience, unleſs they tell the meaſures by which they will be obeyed; and theſe meaſures cannot be any thing but laws, which are at firſt the will of the Prince; and when they are publiſh'd to the People, then they are laws, but not till they be eſtabliſhed by rewards and puniſhments, which are the portion of the People good and bad. Now this is the natural way of all good Government, there is no other; and to govern otherwiſe is as unnatural as to give Children meat at their ears, and hold looking-glaſſes at their elbows that they may ſee their face. If Kings be not bound to govern their People by their laws, why are they made? by what elſe can they be governed? by the will of the Prince? The laws are ſo; onely he hath declar'd his will, and made it certain and regular, and ſuch as wiſe men can walk by, that the Prince may not govern as Fools govern, or as a Lion does, by chance, and violence, and unreaſonable paſſions. *Ea quæ placuerunt, ſervanda*, ſaith the law, *l. 1. ff. de pactis*. If this had not been the will of the Prince, it had been no law; but being his will, let it be ſtood to: when the reaſon alters, let his will doe ſo too, and the law be chang'd, that the meaſures of right and wrong, of obedience and diſobedience may be known.

Caſſiod. var. l. 10. 16, 17.

15. We have ſeen how Kings are bound; the next inquiry is, how they are freed, and how they are ſuperiour to laws. *Antonius Auguſtinus* ſayes, that by the *Lex Regia*, or the *Jus Regium*, Kings, that is, the Supreme power, are onely freed from ſome laws: and this he gathers from the words of the *Royal law* written to *Veſpaſian*, *Uti quibus legibus ne Auguſtus*

Authen. ſi qui is de eden.

ſtus teneretur, iis Veſpaſianus ſolutus eſſet : quæque ex quaque lege Auguſtum facere oportuit, ea omnia Veſpaſiano facere liceat, *Where* Auguſtus Cæſar *was free*, Veſpaſian *ſhould be free : but thoſe things which* Auguſtus *ought to doe, all thoſe* Veſpaſian *might*. The word *liceat* in his caſe was modeſtly put in; not but that *oportuit* had been the better word to expreſs his obligation, as well as the duty of *Auguſtus :* but it was therefore choſen to repreſent that to be *expected* from him, but could not be *exacted*; it was his duty, but no compulſion lay near him: but certain it was, that the power of the People being devolv'd upon him (for it had been a popular Government) as the People were bound to the laws which themſelves have made, ſo was the Prince. The People were, for there was none elſe to keep them: but therefore ſo was the Prince, for he had but the ſame power which the People formerly had when they were Supreme. But then that they were tied but to ſome laws, and not to others, is very true: but ſo, that he was tied to all thoſe laws which were intended to oblige him directly, and indirectly to all the reſt, that is, to govern the People by their meaſures onely.

16. But now if we inquire from what laws they were freed, and what is the right of a King or the Supreme power more then of the People: I anſwer,

1. It conſiſts in that which we in *England* call *The King's Prerogative*; in the Civil Law the *Lex Regia*, or *Veſpaſian*'s Tables; by the Jews חק, the δικαίωμα βασιλέως, *the ſtatute* or *proper appointment of the King :* the particulars of which are either deſcribed in the reſpective laws of every People, or are in their cuſtomes, or elſe is a power of doing every thing that he pleaſe that is not againſt the laws and cuſtomes of his People, without giving a reaſon. *Cum lege antiquâ, quæ Regia nuncupatur, omne jus omniſque poteſtas populi Romani in Imperatoriam tranſlata ſunt poteſtatem*, ſaith the law. Amongſt the *Romans* that was the *Jus Regium*, that the Prince could doe all that ever the People could: now what that was, we find in *Dionyſius*, by the conceſſion of *Romulus*, *Populus Magiſtratus creanto, leges ſciſcunto, bella decernunto*, *The People might create Magiſtrates*, *make laws*, *and decree peace and war*. That is the Right of Kings, or the Supreme power. * *Guntherus* hath ſumm'd them up from the laws and cuſtomes of the Empire, and ſome antient Italian Governments.

L. 1. ff. de conſtitut. Princip. & §. ſed & quod Principi. inſtit. de Jure Natur. & præf. pandect. l. 1. ff. de offic. præf. præt. & Cod. de vet. Jur. enucleand. l. 1. §. ſed & hoc.

* Lib. 8.

Ac primum Ligures, ſuper hoc à Rege rogati,
Vectigal prorſus, cudendæ jura monetæ,
Cumque molendinis telonia, flumina, pontes,
Id quoque quod * *Fodrum vulgari nomine dicunt,*
Et capitolicium certo ſub tempore cenſum :
Hæc Ligures ſacro tribuerunt omnia fiſco.
Hæc & ſiqua pari fuerunt obnoxia juri,
Prælati, proceres, miſſiſque potentibus urbes
Libera Romano reliquerunt omnia regno.

* Fodder.

But the *Jus Regium*, what it is in the conſent of Nations, who pleaſe may ſee in *Ariſtotle*'s Politicks *lib.* 3, & 4. in *Polybius lib.* 6. *Herodotus in Euterpe*, in *Halicarnaſſaus lib.* 4, 5, 7. in *Valerius Maximus l.* 7. *in Orat. quâ ſuadet concordiam patrum & plebis in fin.* in *Tacitus* 4. *Annal.* in *Suetonius in Tiberio c.* 30. *in Dion. lib.* 53. and in the later Politicks, *Fabius Albergatus, Zimara, Bodinus, Aretinus*, and generally in the Commentators upon *Ariſtotle*.

17. 2. It conſiſts in the King's immunity from obligation to ſome ſolemnities of law to which his Subjects are oblig'd. *Ratum eſſe actum, etiamſi actio non habeat plenam rectitudinem, dum jus non deſit*, ſay the Lawyers. Of which nature is that for which *Æneas Sylvius*, afterwards Pope *Pius* the ſecond, laugh'd at *Henry* the ſixth of *England*, that his Publick Inſtruments had no Teſt but his own, and he wrote *Teſte meipſo, Witneſs our ſelf:* in which the King doth imitate the King of Kings, of whom S. *Auſtin* ſayes, *Teſtem ſe dicit futurum, quia in judicio ſuo non indiget teſtibus.* He ſwears by himſelf, becauſe he hath none greater; and is his own witneſs, becauſe he needs no other: and it is enough that a King ſayes it, becauſe his word ought to be great and venerable, as his Power and his Majeſtie. And it was not onely in the matter of coercion, but of ſolemnities, true which *Juſtinian* ſaid, *Omnibus à nobis dictis Imperatoris excipiatur fortuna, cui & ipſas Deus leges ſubjecit, The fortune of the Emperour is to be excepted from the edge and from the forms of laws, becauſe God himſelf hath made the laws ſubject to the Emperour.*

Comm. Pii 2. lib. 3.

Lib. 20. de Civit. Dei, c. 26.

Nov. 105.

18. 3. The King is therefore *ſalutus legibus*, or *free from laws*, becauſe he can give pardon to a Criminal condemn'd: for the Supreme power is not bound to his own laws ſo, but that upon juſt cauſe he can interpoſe between the ſentence and the execution. This the Stoicks allowed not to any wiſe man, as ſuppoſing it to be againſt juſtice; and to remit *due puniſhment*, is to doe what he ought not: for what is *due* is *juſt*, and what is againſt that is *unjuſt*. All which is very true, but nothing to the purpoſe. For it is true, that it is but juſt that Offenders ſhould be puniſh'd; it is due, that is, they are oblig'd to ſuffer it; *pœna debita ex parte reorum*, it is their debt, not the Kings; they are oblig'd, not he: and yet it is juſt in him to take it, that is, he may: but he is not oblig'd in all caſes to doe it. And in this alſo he is an Imitator of the Oeconomy of God, who, according to that of *Lactantius*, *legem cum poneret non utique ſibi ademit omnem poteſtatem, ſed habet ignoſcendi licentiam*, God and the Vicegerent of God when they make laws have not exauctorated themſelves: but as that law is an efflux of their authority, ſo it ſtill remains within the ſame authority that they can pardon Offenders. Thus *David* pardon'd *Shimei* and *Joab*, and would fain have pardon'd *Abſalom*, if the hand of *Joab* had not been too quick for him. And this cannot be denied to the Supreme power, becauſe the exerciſe of this is one of the greateſt vertues of a Prince: which was well obſerv'd by *Pericles* on his death-bed, when his weeping Friends about him praiſed, ſome of them his Eloquence, ſome his Courage, ſome his Victories, lifting up his head a little, *Et quid hoc eſt?* (ſaith he) *aut parva aut fortuita laudatis: at illud maximum omittitis, quod mea opera nemo pullam veſtem ſumpſerit.* That he had no publick executions, that no man was put to wear Blacks for his Friend, was a clemency greater then all the praiſes of Eloquence, or a proſperous fortune.

Sen. Herc. Fur.

——*Quiſquis eſt placidè potens*
Dominuſque vitæ, ſervat innocuas manus,
Et incruentum mitis Imperium regit,
Animóque parcit, longa permenſus din
Permenſus ævi ſpatia, vel Cœlum petit,
Vel læta felix nemoris Elyſii loca.

Senec. De clement.

But all the World commends Clemency, the gentle hand of a Prince, his unwillingneſs to kill, his readineſs to ſave: for, *Principi non minus turpia multa*

ſup-

ſupplicia, quam Medico funera, Many executions are as great a diſhonour in a Princes reign, as many funerals in a Phyſitians practice: and therefore *Caſſiodore* ſaies that *a good and a gentle Prince will ſometimes paſs the limits of equity that he may ſerve the ends of clemency*; *quando ſola eſt miſericordia cui omnes virtutes cedere honorabiliter non recuſant*, for to mercy all other vertues count it honour to give place. And this *Charls* the 5th and *Maximilian* the ſecond ſignified by their deviſe of an Eagle pearching upon a thunderbolt, with an Olive in her beak: and *Nerva* and *Antoninus Pius* impreſs'd upon their money a thunderbolt upon a pillow; to ſignify that vindicative juſtice ought to ſleep ſometimes. * Now certainly this being ſo great an excellency in a Prince, is not greater then his power. *Imperatori licet revocare ſententiam, & reum mortis abſolvere, & ipſi ignoſcere; quia non eſt ſubjectus legibus qui habet in poteſtate leges terræ*, ſaith S. *Auſtin*. The Emperor, who can make laws, is not ſubject to laws, or ſo tied to them but that he may revoke his ſentence and pardon a Criminal. Variar. 11.

19. This I ſay is part of his Royalty; but is onely then to be practis'd when it can conſiſt with the ends of government, that is, when the publick intereſt can be preſerv'd, and the private injury ſome other way recompenc'd. Theſe indeed are the general meaſures not of the Princes power, but of his exerciſing this power juſtly.

20. 1. When the Criminal is a worthy perſon and can be beneficial to the Republick. Thus in the Low Countries a pardon in ordinary caſes of felony is granted of courſe to him that can prove he hath invented ſome new art: and one lately ſav'd his life by finding out a way exactly to counterfeit old medals.

21. 2. If the perſon hath already deſerv'd well of the publick. Thus *Horatius Cocles* was ſpar'd though he kill'd his ſiſter, becauſe he got honour and liberty and ſafety and dominion to *Rome* by killing the three brothers, the *Curatii*: and *Solomon* ſpar'd the life of *Abiathar* the High Prieſt, becauſe he bore the Ark before *David*, and was afflicted in all his troubles. * 1 Kings 2. 26.

22. 3. When the Criminal can be amended, & the caſe is hugely pitiable, and the fact not of greateſt malignity. Thus oftentimes we ſee young men pardon'd, and the firſt fault lightly puniſh'd; and becauſe young *Cæſar* was in the flower of his youth and a Princely boy, *Sylla* was more eaſily prevail'd with for his pardon.

23. 4. If the fault be private, and not brought to publick courts, it is eaſily pardon'd, though delated by a private information. *Conquiri ad judicium neceſſe non fuit*: ſome things when they are made publick cannot be diſmiſs'd, but are not to be inquir'd after. It was the advice of *Cicero* to his Brother *Quintus* concerning a certain Criminal.

24. But all this is upon ſuppoſition that the crime be not of greateſt miſchief, or fouleſt ſcandal and reproach; for if it be, nothing can be taken in exchange for it; a great vertue cannot make compenſation for a very great crime: and this is particularly true of Treaſon, of which thoſe words of *Bartolus* are to be underſtood, *De offenſionibus erga dominum non eſt compenſatio ad ſervitia eidem impenſa*, *The ſervices done to a Lord cannot make*

ſatisfaction for a conſpiracy againſt him. And therefore the *Romans* caus'd *Manlius Capitolinus* to be thrown headlong from that rock from whence he had thrown the *Gauls* when he ſav'd the city. He produc'd the ſpoils of thirty enemies, forty donatives from Generals, two civic crowns, eight murals; yet all would not ſave his life and get his pardon. But yet in theſe things the ſupreme power is ſo free from laws that it does theſe things irregularly; *Clementiam liberum habere arbitrium*, ſaid *Seneca*, *Clemency hath a great liberty*, and *a free choice:* but they are oblig'd onely to ſee that the publick be not prejudic'd, and that every private intereſt be ſecur'd by cauſing amends to be made to the injur'd perſon where it can; and then it is true of every ſupreme Prince which *Seneca* advis'd *Nero* often to remember, *Occidere contra legem nemo poteſt; ſervare nemo prater me, No man at all can put a man to death againſt the law; and none can ſave except the Prince.*

25. 4. The ſupreme power is above the laws, * becauſe he can diſpenſe, * he can interpret them, * and he can abrogate them, * he can in time of neceſſity govern by the laws of reaſon without any written law, * and he is the Judge of the neceſſity. Thus the Kings of *Iſrael* had power over the judicial laws, though of the Divine ſanction. For God forbad that the corps of a Malefactor ſhould hang after ſun-ſet upon the accurſed tree; but yet *Maimonides* ſaies that the King *ſuſpendit & relinquit ſuſpenſos diebus multis, he hangs them and leaves them hanging for many daies*; when it is neceſſary by ſuch terror to affright the growing impiety of wicked men; that is, when the caſe was ſuch that the laws were capable of equity or interpretation. For this was not meerly an effect of his power, but of his reaſon too. It was a cuſtome among the Jews to condemn but one perſon in one day, unleſs they were in the ſame crime, as the adulterer and the adultereſs; but the King might condemn many at once when it was for the intereſt of juſtice and the republick. Thus their King could by the prerogative of his Majeſty proceed ſummarily, ſit in judgment alone without aſſeſſors, condemn upon the teſtimony of one, and by the confeſſion of the party; which the *Sanhedrim* might not doe, but were tied to acquit him that confeſs'd the fact. Add to theſe, * the Supreme can in ſome caſes be Judge and witneſs; that is, can himſelf condemn a criminal for what himſelf onely ſaw him doe. He can alſo be Judge in his own caſe; as if he be injur'd, rail'd upon, defrauded, or the like: all which are powers above the law, and here were to be nam'd for the underſtanding of the preſent Rule; but how they are to be conducted is of diſtinct and ſpecial conſideration, and to be reſerved to their proper places. I end this whole inquiry with that of *Statius*,

* *Vani capitis eſt exiſtimare ſuperiorem non poſſe evocare ſine cauſa cognitione.* Innoc. in c. ad aures de Temp. Ord.

——— *quid enim terriſque poloque*
Parendi ſine lege manet? vice cuncta geruntur.
Alterniſque premunt propriis ſub Regibus omnis
Terra: premit felix Regum diademata Roma:
Hanc ducibus frænare datum, mox creſcit in illos
Imperium Superis———

There is nothing in the earth but is under a law and tied to obedience: all the earth are under Kings, and the Kings are under the *Romans*, and the *Romans* under their Princes, and their Princes under God; who rules them by his own laws, and binds them to rule by their Countries laws, and ties them to doe juſtice, and is pleaſed when they ſhew mercy. But as they are

to

to doe juſtice by the ſentence of the laws, ſo they muſt not ſhew mercy againſt law; for even the prerogative of Kings is by law, and Kings are ſo far above their laws, as the laws themſelves have given leave. For even the ὕφεσις ἀκριβείας ἐν δίκῃ, *the remiſsion of the rigor of the law*, the very Chancery and eaſe of laws is by law eſtabliſhed.

RULE III.

It is not lawfull for Subjects to rebel, or to take up arms againſt the ſupreme Power of the Nation, upon any pretence whatſoever.

1. WHen *Nehemiah* was deputed by *Artaxerxes* to be Governour of *Judæa*, and had commiſſion to rebuild *Jeruſalem* and the Temple, the neighbour Kings that oppoſed him were enemies to *Artaxerxes*, becauſe *Nehemiah* was lieutenant to the King. *He that deſpiſeth me, deſpiſeth him that ſent me*, ſaith our Bleſſed Saviour. *Senatus faciem ſecum attulerat, auctoritatem reipublicæ*, ſaid *Cicero* of one that was deputed and ſent from the Senate. He had the gravity of the Senate and the authority of the Commonwealth. Now this being true of the ſupreme Power in every Government, that it is *poteſtas Dei vicaria*, it is the Miniſter of God, appointed by him, ſet in his place, inveſted with a ray of his Majeſty, intruſted with no Power but his, repreſenting none but him, having received the Sword from his hand, the Power of life and death from his warranty; it muſt needs follow that he who lifts up his hand againſt that ſupreme Perſon or Authority that God hath appointed over him is impious againſt God and fights againſt him. This the Apoſtle expreſly affirms, and there needs no more words to prove the Rule, *He that reſiſts, reſiſts the ordinance of God**. He does not ſay, he that does not obey is diſobedient to God, for that is not true. Sometimes it is neceſſary not to obey, as it hapned to the captive *Jews* under *Nabuchodonoſor*, and to the Apoſtles under their Princes; they could not obey God and them too: and then the caſe of Conſcience was ſoon reſolved. But they that could not obey, could die; they could goe into the fire, ſuffer ſcourgings and impriſonments, that was their ἓν μέγα, their great Sanctuary; which in behalf of the Chriſtians *Gregory Nazianzen* thus expreſſes, ἓν ἔχω πρὸς πάντα φάρμακον, μίαν ὁδὸν εἰς νίκλω (ἐν Χριστῷ καυχήσομαι) καὶ ὑπὲρ Χριστοῦ θάνατον, *I have but one remedy againſt all my evils, one way to victory, thanks be to Chriſt, I can die for him*: that's ὑπολαγεῖν ἢ μὴ ἀνυπολαγεῖν, to obey where they can, and where they cannot to be ſure to lie down under the burden which they cannot carry. For though in ſome caſes it is lawfull not to obey, yet in all caſes it is neceſſary not to reſiſt.

2. I do not know any propoſition in the world clearer and more certain in Chriſtianity then this Rule, and therefore cannot recount any greater inſtance of humane infirmity then that ſome wiſe men ſhould be abus'd into a contrary perſwaſion. But I ſee that intereſt and paſſion are alwaies the greateſt arguments, where they are admitted. But I have an ill task to write Caſes of Conſcience, if ſuch things as theſe ſhall be hard to be

perſwaded: for there are very few things in which any man is to hope for half ſo much conviction as in this article lies before him in every topick; and if I ſhould determine no caſes but upon ſuch mighty terms as can be afforded in this queſtion, and are given, and yet we prevail not, I muſt never hope to doe any ſervice to any intereſt of wiſedome or peace, of juſtice or religion. And therefore I am clearly of opinion that no man who can think it lawful to fight againſt the ſupreme power of his Nation, can be fit to read Caſes of Conſcience; for nothing can ever ſatisfie him whoſe Conſcience is armour of proof againſt the plain and eaſy demonſtrations of this queſtion. But this queſtion is of the ſame nature as all clear and neceſſary truths, never obſcure but when it is diſputed; certain to all men and evident if they will uſe their own eyes; but if they call for glaſſes of them that make a trade of it, it may chance not to prove ſo. But I will ſpeak of it with all eaſineſs and ſimplicity.

3. 1. The Scripture is plain, *Curſe not the King, no not in thy thought:* and, *I counſel thee to keep the Kings Commandement, and that in regard of the oath of God— for he doth whatſoever pleaſeth him. Where the word of a King is, there is power, and who may ſay unto him, What doeſt thou? Againſt him there is no riſing up.* There are many more excellent words in the Old Teſtament to this purpoſe; but nothing can be plainer then theſe dogmatically to eſtabliſh the doctrine of the Rule. No man can queſtion him; no man may riſe up againſt him; he hath power, he hath all power; we are by the law or the oath of God bound to keep his Commandement; and after all, we muſt not reproach him in our ſecret thoughts. No man needs this laſt precept but he that thinks the King is an evil man, or hath done wrong: but ſuppoſe he have, or that he is ſuppos'd to have, yet Curſe him not, *Doe not ſlight him*, ſo it is in the Hebrew; *Regi ne detrahas*, ſo it is in the Vulgar Latine, *Diſparage not the King:* but the Chaldee paraphraſe addes, *Even in thy Conſcience, in the ſecrets of thy heart ſpeak not evil of the King, and in the cloſets of the chambers of thy houſe ſpeak not evil of the wiſe man; for the Angel* Raziel *does every day from heaven cry out upon the mount of* Horeb, *and his voice paſſes into all the world: and* Eliahu, *the great Prieſt, flies in the aire of heaven like a winged Eagle, and tells the words which are ſpoken in corners by all the inhabitants of the earth.* By the way I onely obſerve this, that we are forbidden to *ſpeak evil of the rich* or the mighty man, the *wiſe man*, ſo the Chaldee calls him, that is, the Princely men of the world, the Magiſtrates and Nobles, whom S. *Peter* calls τὸς ἡγεμόνας δι' βασιλέως πεμπομένους, *Captains* or *rulers ſent by the King:* of theſe we muſt ſay no evil in our private houſes, leſt a bird of the aire, leſt that which hath wings, that is, leſt the Angel that attends us orders it ſo as to paſs into publication; for the government of the other world reaches ſtrangely even to us, and we ſpeak not a word in vain, but by the Divine providence it is diſpos'd to purpoſes that we underſtand not. But when he ſpeaks of the King or the ſupreme, whom S. *Peter* calls τὸ ὑπερέχοντα, then it is μὴ καταράσῃ τῷ βασιλέα ἐν τῇ συνειδήσει, μηδὲ ἐν κρυπτῷ τῆς καρδίας, call him not accurſed in thy heart, not ſo much as in thy thought; which becauſe it is only perceiv'd by God who is the ſearcher of the heart, it ſhews plainly that as Angels take care of the rich and the wiſe, the mighty and the Nobles, ſo Kings are the peculiar care of God, who is the King of Kings and the Lord of Lords. But then (to leave all curioſities) if we may not ſpeak or think reproachfully of the King, we may not doe that which

Eccl. 10. 20. Eccleſ. 8. 2, 3. Prov. 30. 31.

מלך אל תקלל

is

is more and that which is worſe: and I think there needs no more to be ſaid. But it is as clear all the way.

4. In the New Teſtament, ſufficient are the excellent words of our Bleſſed Saviour, μὴ ἀντιστῆναι τῷ πονηρῷ *not to reſiſt evil*, that is, not to ſtand againſt it, not to oppoſe evil to evil; which obliges all Chriſtians that at leaſt without the magiſtrate they cauſe no return of evil to the offending perſon; that no man be his own avenger, for vengeance belongs to God, and he hath delegated that to none but to the ſupreme Magiſtrate, who is θεοῦ διάκονος ἔκδικος εἰς ὀργὴν, *Gods miniſter to be a revenger of wrath under him*. Now if no man muſt pay evil to his brother that hath injur'd him but by the hand of the ſupreme power, how can it be poſſible that it can be lawful to render evil for evil to the ſupreme power it ſelf? by whoſe hands ſhall that be done? by none but by his Superior, who is God alone, who will take care to puniſh evil Kings ſufficiently: onely we muſt not doe it; we muſt not pray him to doe it; for that is expreſsly againſt the words of *Solomon*, that's *curſing the King in our thought*, and not at all to be done. But beſides this there are many more things ſpoken by our Bleſſed Lord to determine us in this affair. *Render to Ceſar the things that are Ceſars*; and to *Pilate* Chriſt ſaid, *Thou ſhouldeſt have no power over me unleſs it were given thee from above*; meaning that *Ceſars* power, whoſe Deputy *Pilate* was, was deriv'd from God, and conſequently that, except God, none is greater upon Earth then *Ceſar*: and again, *If my Kingdome were of this world, my ſervants would fight for me*; which plainly enough confirms the power of the *Militia* in the ſupreme Magiſtrate, Chriſt leaving it where he found it.

5. But that there may be no diſpute concerning theſe things, the Apoſtles, who are expounders of the words of Chriſt and the meaning of his Spirit, tell us plainly, μὴ ἀνυποτάσσεσθαι, to be ſubject ἐξουσίαις ὑπερεχούσαις *to ſupreme powers*; the ſame with S. *Peter's* βασιλεῖ ὡς ὑπερέχοντι, *to the King as to the Supreme*, that is to the King, if he be a King indeed, if he be the ſupreme; to be ſubject to theſe powers, and not to reſiſt, for theſe reaſons. 1. Becauſe this ſupreme power is ordain'd of God: 2. Becauſe he that reſiſts, reſiſts God whoſe miniſter the Prince is: 3. Becauſe God hath arm'd the powers which he ordain'd with a ſword of power and revenge: 4. Becauſe it is for our good that we ſubmit to him; for he is Gods miniſter for good, that is, for the publick good, under which thine is comprehended: 5. Becauſe it is *neceſſary*; the neceſſity being apparent in the nature of the thing and in the Commandement of God: 6. Becauſe God hath bound our Conſcience to it: 7. He hath tied this band upon us with fear alſo: and 8. laſtly, becauſe whoever does not obey where he may lawfully, and whoſoever does in any caſe reſiſt, ſhall receive damnation to himſelf both here and hereafter; here upon the ſtock of *fear*, hereafter upon the account of *conſcience*; for both for fear and for Conſcience we muſt obey in good things and lawful, & we muſt not reſiſt in any. For indefinitely we are commanded not to reſiſt, without any diſtinction or reſervation of caſe; and *Ubi lex non diſtinguit, nemo diſtinguere debet*. He that will goe about to be wiſer then the law, in equity will not be better then a fool. This therefore is the ſumme of S. *Pauls* diſcourſe, *Rom.* 13. *per totum.*

6. S. *Paul* was the Doctor of the Gentiles, S. *Peter* of the Jews; and therefore this doctrine is ſufficiently conſign'd to all the world: for S. *Peter*

1 Pet. 2. 13, ad 17. verſ.

hath preach'd this doctrine as largely as S. *Paul*, *Submit your ſelves to every ordinance of man, for the Lord*, that is, for his ſake, upon his Commandement and for his honour; theſe ordinances being Gods ordinances, ὑπὸ θεοῦ πεταγμέναι, *they are ordain'd by God*, all of them, the King principally, his captains & officers which he hath ſent, in the next place. But him and his Miniſters we muſt receive & honour and obey, & ſubmit to them; for it is Gods caſe & his Miniſters; God & his Miniſters & Lieutenants, the King & his. He that deſpiſes him whom the King ſends, deſpiſes the King; and he that deſpiſes him whom God ſends or makes his deputy, deſpiſes God. Submit therefore, for it is the will of God; Submit, for this is *well-doing*; Submit, for ſo *we ſhall put to ſilence the ignorance of fooliſh men*: Meaning that ſince the enemies of Chriſt are apt to ſpeak evil things of you, glad would they be if they had cauſe to accuſe you for not being obedient to government; and ſome are ignorant and fooliſhly pretend the liberty and priviledges of Saints againſt the intereſts of obedience; the mouths of theſe men muſt be ſtopp'd, and you muſt ſubmit to Kings, that you may pleaſe God and confute the adverſaries. Now the ſpecification of this great duty and the particular caſe of Conſcience follows; *Fear God, Honour the King: Servants be obedient to your Maſters; not onely to the good and gentle, but alſo to the froward.* Τοῦτο γὰρ χάρις, *for this is thank-worthy*: and this is full to the queſtion in hand. For the general precept which S. *Peter* gave is, ὑποτάγητε πάσῃ ἀνθρωπίνῃ κτίσει, *ſubmit to every ordinance*, to the King, to his Magiſtrates or deputies & captains, and laſtly ſubmit to the loweſt of all dominions, even ſervants to their maſters; not onely to the good and gentle, but to the moroſe and harſh. Now if ſo to inferiour maſters, whoſe dominion is no greater then their intereſt, & their intereſt is no greater then their price, and is ſtill under the power of Kings; much more to Kings or to the ſupreme power. * And indeed even ſubjection to Kings is the gentleſt and moſt eligible kind of *ſervice. Then would my ſervants fight*, ſaid Chriſt, meaning it of the ſubjects of his Kingdome: and *Livy* cals *populum Romanum ſervientem cum ſub Regibus eſſet*, they did ſerve their Kings. * And indeed as the Governments of the world then were, Kings were moſt abſolute, and the people intirely ſubject, and far from liberty: and therefore this of ſervants might very well be a ſpecification and a particular of their duty to Kings & Captains; and whether it were or no, it is for the former argument [*from the leſs to the greater affirmatively*] infinitely certain that the ſame duty is due to Kings though harſh and cruel: for indeed there were then none elſe; *Nero* was the ſupreme, and he was none of the beſt that ever wore purple.

7. It were very eaſy to draw forth more arguments from Scripture to this purpoſe; but I forbear to name more then this abundance which is contain'd in theſe now cited: but I ſhall not omit to obſerve that the Apoſtles did make uſe of that argument which I urg'd out of *Solomon*, that *we are not to ſpeak evil of the King*; from whence the unlawfulneſs of reſiſting is

Jude 8. unanſwerably concluded: for S. *Jude* giving the character of the worſt of men and the baſeſt of hereticks, reckons up in the bill of their particulars, that *they deſpiſe dominion and ſpeak evil of dignities*; which as it is an infallible mark of an evil perſon, ſo it is a uſing of a Prince worſe then S. *Michael* the *Archangel* durſt uſe the Devil, againſt whom, becauſe he was a Spirit of an higher order, though foully changed, he durſt not bring a railing accuſation, κρίσιν βλασφημίας *a judgment* or *accuſation with blaſphemy in it*: for all evil language of our Superior is no better then blaſphemy;

He

He did blaſpheme God and the King, was the crime pretended againſt *Naboth*.

8. If from the plain words of Scripture we deſcend to the doctrine and practices of the Church of God, we ſhall find that all Chriſtians when they were moſt of all tempted, when they were perſecuted and oppreſs'd, kill'd and tormented, ſpoil'd of their goods, and cruelly and deſpitefully us'd, not onely did not rebel when they had power and numbers, but profeſs'd it to be unlawful. But this I ſhall draw into a *compendium*; becauſe it being but matter of fact, and the matter in Scripture being ſo plain that it needs no interpretation, the practice and doctrine of the Church, which is uſually the beſt commentary, is now but of little uſe in a caſe ſo plain. But this alſo is as plain it ſelf, and without any variety, diſſent or interruption, univerſally agreed upon, univerſally practis'd and taught, that let the powers ſet over us be what they will, we muſt ſuffer it, and never right our ſelves. *Tertullian* boaſts with confidence, that when *Peſcennius Niger* in *Syria*, and *Clodius Albinus* in *France* and *Britanny* rebell'd againſt *Septimius Severus* a bloody and cruel Emperour, and pretended piety and publick good, yet none of the Chriſtians joyn'd with either. The *Theban* legion in the 18th year of *Diocletian* ſuffer'd themſelves to be cut in pieces every man, ſix thouſand ſix hundred ſixty and ſix in number, by *Maximianus* the Emperour; no man in that great advantage of number and order and provocation lifting up their hands, except it were in prayer: of theſe *Venantius Fortunatus* hath left this Memorial, Biblioth. PP. Tom. 8. edit. Binian.

Queis poſitis gladiis ſunt arma è dogmate Pauli,
Nomine pro Chriſti dulcius eſſe mori.
Pectore belligero poterant qui vincere ferro
Invitant jugulis vulnera chara ſuis.

They laid down their weapons and lift up their arms; they prayed and died in order: and this they did according to the doctrine of S. *Paul*. But when *Julian* was Emperour, an apoſtate from his religion, a great perſecutor of the Chriſtians, and who by his cruelty (as *Nazianzen* obſerves) brought the commonwealth it ſelf in danger, though his army did moſt conſiſt of Chriſtians, yet they had arms for him, but none againſt him, ſave onely that by prayers and tears they diverted many of his damnable counſels and deſigns. But the particulars are too many to recite what might be very pertinent to this queſtion from Antiquity. I ſhall therefore ſerve the intereſt of it as to this topick by pointing out the writings of the ancient Doctors where they have given teſtimony to this great article of our religion, which who pleaſe may find in *S. Clement conſtit. l. 7. c. 17. S. Irenæus lib. 5. Adverſ. hæreſ. c. 20. Juſtin Martyr, Apolog. 2. ad Antonin. Imperatorem, Tertullian ad Scapulam, & Apolog. adv. Gent. cap. 30. S. Cyprian ad Demetrianum, Hoſius apud Athanaſ. ad ſolitariam vitam agentes, Liberius ibid. S. Hilary ad Imperat. Conſtantium, S. Athanaſius ad Antioch. quæſt. 55. & Apolog. ad Conſtant. vide etiam factum Baſilii in Monodia Nazianz. inter opuſcula Baſilii, Nazianzen. 2. orat. contr. Julian. Optatus Milevitanus lib. 3. contr. Parmen. S. Chryſoſtom. orat. 2. ad pop. Antioch. tom. 6. edit. Savil.* Orat. 1. in Julian.

* *S. Ambroſe Epiſt. 33. ad Marcellinam, S. Cyril. in Evang. Johan. l. 12. c. 36. S. Hieron. comment. in 2. Dan. S. Auguſtin. lib. 4. de civit. Dei, c. 33. & lib. 5. c. 21. & in Pſalm. 124.* * *Anaſtaſius P. epiſt. unic. ad Anaſtaſium Imper. Symmachus P. ad eundem Anaſt. Imp. Leo P. ad Leonem Imperat. & epiſt. 13. ad Pulcheriam, S. Gregor. Mag. Epiſt. l. 7. ep. 1.* * Et in 1 Timoth. c. 2. v. 1. * Et Epiſt. 54. ad Macedon. & tract. 6. in Johan.

After

9. After him ſucceeded (*Sabinianus* being interpos'd for one year onely) *Boniface* the third, who obtain'd of *Phocas* to be called univerſal Biſhop: ſince when *periit virtus Imperatorum, periit pietas Pontificum*, ſaies one, *the Kings loſt their ſtrength and the Biſhops loſt their piety*; yet in the deſcending ages God wanted not many worthy perſons to give teſtimonies to this great truth and duty. Such were *Stephen the ſixth* apud *Baronium tom.* 10. *A. D.* 885. *n.* 11. *Gregorius Turonenſis hiſt. lib.* 5. *cap.* 1. *Concil. Toletan.* 5. *can.* 2. *& Concilium Toletan.* 6. *c.*14. *Fulgentius parallel. ad Thraſimundum Regem, Damaſcen. parallel.* 1. *c.* 21. *V. Bede, lib.* 4. *expoſ. in Samuel. Leo* 4. *cap. de capitulis, diſt.* 15. *S. Bernard epiſt.* 221. *to Lewis le Gros : vide etiam epiſt. Walthrami Epiſ. Nanumberg. quæ habetur in appendice Mariani Scoti.*

10. Now it is very obſervable that in the ſucceſſion of about ſix Ages, in which the Holy Doctors of the Church gave ſuch clear teſtimony of the neceſſity of obeying even the worſt Princes, and many thouſands of holy Chriſtians ſealed it with their blood, there was no oppoſition to it; and none of any reputation, no man of learning did any thing againſt the intereſt or the honour of Princes, excepting onely (ſo far as I have obſerved) *Lucifer Calaritanus*, who indeed ſpake rude and unbeſeeming words of *Conſtantius* the Arrian Emperor; but that he may leſſen nothing of the univerſal conſent to this doctrine, S. *Ambroſe* does leſſen very much of his reputation, ſaying that though he was with the true believers baniſhed for religion, yet he ſeparated himſelf from their Communion. But in the next period, I mean after *Gregory* the Great, it was not unuſual for the Biſhops of *Rome* to ſtirre up ſubjects to rebel againſt their Princes, and from them came the firſt great declenſion and debauchery of the glory of Chriſtian loyalty and ſubjection to their Princes; witneſs thoſe ſad ſtories of P. *Gregory* the ſeventh, P. *Urban* and *Paſchal*, who ſtirred up the Emperors Son againſt the Father. I ſpeak it to this purpoſe, becauſe it produc'd an excellent epiſtle from the Church-men of *Liege* in behalf of the Emperor and of their Biſhop, who with his Chapter was excommunicated for adhering to his loyalty, and *Robert* Earl of *Flanders* commanded by the Pope to deſtroy him and all his Prieſts. But in behalf of Princes & the duty of ſubjection to them many excellent things were ſpoken, divers judgments of God fearfully falling upon rebellious people are recited, not onely in that Epiſtle of the Clergy of *Liege*, but in the life of *Henry* the 4th, Emperor, *in faſciculo rerum ſciend.* publiſhed at *Colen.* From all theſe Fathers and Ancient Authors now cited, *magnum mundo documentum datum eſt* (that I may uſe the words of the Author of the book laſt cited) *a great inſtruction and caution is given to the whole world that no man riſe up againſt his Prince.* For all theſe Authors give clear and abundant teſtimony to theſe truths, That the power of the ſupreme Magiſtrate is immediately from God, *That it is ſubject to God alone, *That by him alone it is to be judged, * That he is the governor of all things and perſons within his dominions, * That whoſoever ſpeaks reproachfully of him cannot be innocent, * That he that lifts up his hand againſt him ſtrikes at the face of God, * That God hath confounded ſuch perſons that againſt the laws of God, and their own oaths, and the natural bonds of fidelity, have attempted to ſpoil their ſupreme Lords, That *Herman* and *Egbert* that did ſo were confounded for ſo doing, as though they had never been, That *Rudolphus* had his hand cut off and felt divers other of the divine judgments for this impiety. And this being the conſtant univerſal doctrine of the Church of God for 1200. years, and this derived from the plain, the expreſs,

Orat. in obit. fratr. Satyri.

apud Simon. Scard.

preſs, the frequent ſayings and Commandements of God in the Old and New Teſtament, declared by his Prophets and Apoſtles, and by his moſt holy Son himſelf, nothing can with greater certainty determine and conduct our Conſcience then this Rule. For the confirmation of which I remember S. *Bernard* tells a pretty little ſtory, in a Sermon upon theſe words of Chriſt, *I am the Vine: Bene quidam Rex cùm percuſſus humanâ ſagittâ*, &c. *It was well ſaid of a King who being wounded with a barbed arrow*, they that were about him deſired he would ſuffer himſelf to be bound till the head were cut out, becauſe the leaſt motion irregular would endanger his life; he anſwer'd, *Regem ligari nullo modo decet, A King muſt at no hand be bound*; let the King be ever ſafe, but let his power be at liberty. I end this topick with the words of S. *Auſtin* and of the ſixth Councel of *Toledo*, *Non tribuamus dandi regni atque imperii poteſtatem niſi vero Deo, Let us attribute the power of giving the right of empire to none but to the true God alone. Ille unus verus Deus qui nec judicio nec adjutorio deſerit genus humanum, quando velit & quantum voluit Romanis regnum dedit: qui dedit Aſſyriis, vel etiam Perſis; qui Mario, ipſe Caio Cæſari; qui Auguſto, ipſe & Neroni; qui Veſpaſiano, vel Patri vel Filio, ſuaviſſimis Imperatoribus, ipſe & Domitiano crudeliſſimo; & ne per ſingulos ire neceſſe ſit, qui Conſtantino Chriſtiano, ipſe Apoſtatæ Juliano. Hoc planè Deus Unus verus regit, & gubernat ut placet. The one true God, who never leavs mankind deſtitute of right and help, hath given a kingdome to the* Romans, *as long as he pleaſe and as much as he pleaſe. He that gave the ſupreme power to the* Aſſyrians, *he alſo gave it to the* Perſians. *He that gave it to* Marius *a common Plebeian, gave it to* Caius Cæſar *who was a Princely perſon. The ſame authority he gave to* Nero *that he gave to* Auguſtus; *he gave as much power and Authority to the moſt cruel* Domitian *as he gave to* Veſpaſian *and to* Titus *the gentleſt and the ſweeteſt Princes; and to be ſhort, he gave the Authority to* Conſtantine *the Chriſtian, and the ſame afterwards to* Julian *the Apoſtate: for this great affaire he rules and governs as he pleaſe.* lib. 5. de Civit. Dei. c. 21.

11. But all this is no more then what natural and neceſſary reaſon does teach all the world: *Hanc Deus & melior litem natura diremit.* For this which I have alleaged from the Fathers is properly a religious reaſon. It is Gods power which is in the ſupreme Magiſtrate, whether he be good or bad: therefore whoever rebels againſt him, rebels againſt the power and diſpenſation of God; and to this there is nothing reaſonable to be oppos'd. But then that which I am now to ſay is deriv'd to us by the reaſon that every man carries about him, by the very law of Nature.

Naturam vero appello legem Omnipotentis
Supremique Patris, quam prima ab origine rerum
Cunctis impoſuit rebus, juſſitque teneri
Inviolabiter. ———

By the law of Nature I mean the prime law of God which he unalterably impos'd upon all men in their firſt Creation, that by reaſon and wiſe diſcourſes they ſhould govern themſelves in order to that end which is perfective of humane nature and ſociety. The law of nature is the law of God which is reaſonable and neceſſary to nature: now by this law or neceſſary reaſon we find it very fit that we ſhould deveſt our ſelves of the practice and exerciſe of ſome rights and liberties which naturally we have. So *Ariſtotle* obſerves, *Homines adductos ratione multa præter mores & naturam agere, ſi aliter agi melius eſſe ſibi perſuaſerint, Men doe ſomethings againſt their* Polit. 7. c. 13.

their natural inclination, if by natural reaſon they find it beſt to doe ſo. Now Nature having permitted every man to defend himſelf as well as he can againſt violence, did by an early experience quickly perceive that few men had power enough to doe it againſt every violent man; and therefore they drew into ſocieties, gather'd their ſtrength, and it was put into the hands of them who by a joyn'd ſtrength could, and by promiſe and intereſt and duty would doe it: and by this means the ſocieties had peace, and might live quietly. Now the natural conſequent is this, that if all our power is united and intruſted to one head, we muſt not keep it in our hands. If the ſupreme power be the avenger, we muſt not meddle; if he be Judge, we muſt ſubmit, for elſe we are never the nearer to peace. For when we were ſo many ſingle perſons we were alwaies in warre, but by unity and government we come to peace: therefore whatever we could doe alone, we having put into the common ſtock, our natural right of defence is in the publick hand, and there it muſt remain for ever; and we are to be defended by the laws, and they onely are now the miniſteries of peace. This is S. *Pauls* argument, *I exhort that prayers and ſupplications be made* 1 Tim. 2. 2. *for all men; for Kings and all that are in authority, that we may lead a quiet and a peaceable life in all godlineſs and honeſty:* plainly implying that the ſecurity and peace of ſocieties depends upon the power and authority of Kings and perſons in eminency and truſt: for none muſt make warre but he that does it for all mens intereſt; and therefore it is peace with all that are under government: but then that which is deſigned to keep peace muſt feel no warre from them whom it is deſigned to keep in peace, that they may not feel the evils of warre. If government be neceſſary, it is neceſſary that we ſhould obey it; if we muſt obey it, we muſt not judge it; if we muſt not judge it, we may not endeavour to puniſh it: and there is nothing in the world a greater deſtruction to it's own ends, then the reſiſting or rebelling againſt government; becauſe if we be above it, how are we ſubjects? if ſubjects, how are we it's Judges? if no Judges, how can we be avengers? if no avengers, why are we not quiet and patient? If we be not above, we are below; and therefore there let us abide: but if we be above, then we are the ſupreme power; and then it is all one. That which is ſaid all this while concerns the ſubjects, and not the Supreme, to whom by our natural neceſſities, by a general contract of mankind, by the law of nations, by the command of God, and by the civil laws of all republicks the ſubject is bound, and does owe obedience and maintenance, and honour and peace. *Generale pactum eſt ſocietatis humanæ obedire Regibus ſuis*, ſaid S. *Auſtin*, lib. 3. Confeſſ. cap. 8. *it is a covenant that all mankind have agreed in, to be obedient to their Kings.*

12. But all this is true: but ſince Kings are for defence and Juſtice, for good and not for evil, for edification and not for deſtruction, good Kings muſt be obeyed; but what if they be evil and unjuſt, cruel and unreaſonable enemies of their people, and enemies of mankind?

13. This is that I have been ſaying all this while, that let him be what he will, if he be the ſupreme, he is ſuperior to me, and I have nothing to doe, but ſomething to ſuffer; let God take care, if he pleaſe, I ſhall be quickly remedied, till then I muſt doe as well as I can. For if there be any caſe in which the ſubjects may reſiſt, who ſhall be Judge of that caſe? can this caſe be evident and notorious? and does it alwaies conſiſt in *indiviſibili*? If it does not, then many things are like it, and who can ſecure that the ſubjects ſhall judge right? For if they were infallible, yet who will engage that they

they will not doe amiſs? what warranty have we againſt the ambition and the paſſion and the intereſt of the reformers of ſupreme powers? And is it not better to ſuffer inconvenience from one then from every one that pleaſe? But if you allow one caſe, you muſt allow as many as can be reduc'd to it; and who is not witty enough againſt Governours, to find excuſes enough to bring them down?

14. 2. What remedy is there in caſe the ſupreme power be ill adminiſtred? will not any remedy bring greater evils then the particular injuſtices which are complain'd of? It was well ſaid of *Xenophon*, ὅστις ἐν πολέμῳ ὢν φασιάζει πρὸς τὸν ἄρχοντα, πρὸς τοῦτο ἑαυτῷ σωτηρίαν φασιάζει, *He that oppoſes his General* and Prince, *oppoſes his own ſafety.* For conſider, *what order can be in a family, if the boys rule their Fathers and rebel againſt their command? How ſhall the ſick be cur'd, if they reſiſt the advice and preſcriptions of the Phyſicians? And they that ſail are like to ſuffer ſhipwrack, if the Boatſwain and the Swabbers and the boys ſhall contradict the Maſter. So it is impoſſible that there can be ſafety in a common-wealth, if they who are appointed to obey ſhall offer to rule.* Φύσει γὰρ ἀναγκαῖά τινα καὶ σωτήρια τῷ μὲν ἄρχειν ἐν τοῖς ἀνθρώποις, τῷ δ' ἄρχεσθαι πίστιν λαβεῖν, *For by nature it is neceſſary and profitable and order'd accordingly, that one ſhould rule and the reſt ſhould be obedient.* Dion. Caſſius.

15. And therefore theſe wild caſes are not to be pretended againſt that which natural reaſon and natural neceſſity have eſtabliſhed. We cannot ſuppoſe a King that ſhould endeavour to deſtroy his Kingdome. We may as well ſuppoſe a Father to kill his children, and that therefore in ſome caſes it may be lawful for children to rebel againſt their Fathers, turn them out of doors, &, as they ſee occaſion, cut their throats that the inheritance may be theirs. Whom can we ſuppoſe worſe then *Julian*, then *Domitian*, then *Nero*? and yet theſe Princes were obeyed, and did never proceed to the extremity of ſuch deſperate hoſtilities: Nay *Nero*, as bad as he was, yet when he was kill'd, was quickly miſs'd; for in a few moneths three Princes ſucceeded him, and there was more blood of the Citizens ſpilt in thoſe few moneths then in *Nero's* fourteen year. And who pleaſe both for their pleaſure and their inſtruction to read the *Encomium* of *Nero* written by the incomparable *Cardan*, ſhall find that the worſt of Princes doe much more good then they doe harm. But, *ſemper Corpori grave eſt Caput, the head alwaies* akes, and *is a burden to the ſhoulders*, and we complain much of every little diſorder. Put caſe a Prince by injuſtice doe violence to ſome of his ſubjects, what then? *Qui unum, qui plures occidit, non tamen reip. læſæ rem eſt, ſed cædis*, ſaid *Seneca*, It is not the killing of ſome Citizens that deſtroyes the Commonwealth: and there are not many Princes that proceed ſo far as to doe open and profeſs'd wrong to the lives of their ſubjects; but many ſubjects have done violence, open and apparent, to the lives of their Princes, and yet the ſubjects are apteſt to complain. *Quis Princeps apud nos regnavit è Vicecomitum aut Sfortiadum familiâ quem non aliquis Civis noſter etiam ſine cauſa, ſed ſolâ ambitione, ferro aggreſſus ſit? pauci certè, Which of our Princes of ſuch and ſuch a family hath not been ſet upon to be murder'd by ſome of their Subjects, without cauſe, but meerly out of ambition? very few.* And he that reads *Hector Boethius* his hiſtory of *Scotland* may ſay as much as *Cardan*, and for a longer time. Every man complains of Kings and Governours; we love them not, and then every little thing makes him a Tyrant: but it is in this caſe as in the caſe of women (faires

Albericus Gentilis) we cannot be without them, and yet we are not pleas'd when we are tied to them. * If any ſuch thing could happen that a King had a mind to deſtroy his people, by whom ſhould he doe it? He alone can hardly doe it; and he could hardly arm his people againſt themſelves. But what ſhould he get by it? he cannot be ſo unreaſonable: but ſuppoſe it, what then? *Oppreſſion will make a wiſe man mad* (ſaith *Solomon*) and there are ſome temptations bigger then a mans ſtrength; and this would be one of them, and the people would be vext into the ſin of rebellion; and then it may be, God would cut him off, and puniſh the people; and here would be calamity enough in this whole entercourſe, but nothing lawful. For we have nothing dearer to us then our lives and our religion; but in both theſe caſes we find whole armies of Chriſtians dying quietly, and ſuffering perſecution without murmur. * But it cannot be done, it cannot eaſily be ſuppos'd that an evil Prince ſhould be otherwiſe then one that is cruel and unjuſt, and this to fall upon ſome perſons: for let him be luſtfull, he ſhall not raviſh the Common-wealth; and if he be bloody, his ſword cannot cut off very great numbers; and if he be covetous, he will not take away all mens eſtates: but if a warre be made againſt him, theſe evils will be very much more univerſal; for the worſt of Princes that ever was hath obliged a great many, and ſome will follow him out of duty, ſome for fear, ſome for honour, and ſome for hopes; and then as there is no ſubject that complains of wrong but he hath under the government receiv'd more right then wrong, ſo there is none that goes to doe himſelf right, (if that be all he intends, and not covetous and ambitious deſigns) but in the forcing it he will find more wrong then right.

16. 3. But I demand, Are there no perſons from whom if we receive wrong we muſt not be avenged of them? To a Chriſtian it had been a more reaſonable inquiry, whether there be any perſons of whom we may be avenged. Certainly there are none of whom we may be avenged without the aid or leave of the publick power. But what if our Father doe us wrong? may we ſtrike him? ὀργὴν πατρὸς φέρειν, *to bear our Fathers* unjuſt *wrath* was one of the precepts the young man of *Eretria* had learnt of *Xeno*: and what then if we be injur'd by the publick Father? *Magno animo Regis, velut parentis contumeliam tulit*; it was ſaid of *Lyſimachus*: *& ut parentum ſævitiam ſic Patriæ patiendo ac ferendo leniendam eſſe*, ſaid *Livy*. If we muſt bear with our Fathers, ſo alſo with our Princes. *Vi regere Patriam aut Parentes, quanquam & poſſis, & delictis corrigas, importunum eſt*, ſaid *Salluſt*, *Though it were in your power, though you might reform ſome evils, yet to rule your Parents or your Prince by force is not reaſonable.* And it was an excellent ſaying which *Cicero* had from *Plato*, *Tantum contendere in rep. oportet quantum probare tuis civibus poſſis, vim neque parenti neque patriæ afferri oportere. Id enim Plato jubet, quem ego vehementer ſequor: & qui hanc cauſam ſibi fuiſſe ait reipublicæ non attingendæ, quod cum offendiſſet populum Athenienſem propè jam deſipientem ſenectute, cumque eum nec perſuadendo nec cogendo regi poſſe vidiſſet, cum perſuaderi poſſe diffideret, cogi fas eſſe non arbitraretur, To contend and fight in a Common-wealth can never be approved by the Citizens: ſtrive ſo much as you can juſtify: but you muſt offer force neither to your parents nor to your country, that is the ſupreme government of your Country. And when* Plato *ſaw the people of* Athens *almoſt doating with age, he deſpair'd of prevailing upon them by perſwaſion; but yet to compel them by force he concluded to be impious.* But can any man looſe by

Bell. Jugurth.

lib. 1. Fam. ep. 9.

by patience? hath it no reward? or is there no degrees of Counſel in it? that is, Is not ſome patience acceptable though it be not neceſſary? ſhall it have no reward, if it be more then we are bound to? If it ſhall be rewarded, though it be greater then is ſimply neceſſary, then it is certain, that whatever we ſuffer under evil Princes, to be quiet and peaceable is infinitely better then to reſiſt: For *that* ſhall have a good reward; *this* ſeldome miſſes an ill one. But if there be no counſel, no degree of uncommanded patience, then all patience is neceſſary; for it is certain none is ſinne: for Chriſt was glorified by ſuffering the greateſt injuries, and his Martyrs have trodden the ſame way of the Croſs; and ſo muſt we if God calls us to it, if we will be his Diſciples.

17. 4. But again I conſider, Does every ſubject that is a wicked man forfeit the right in his eſtate, otherwiſe then law appoints? Is dominion founded in grace? or is it founded in law and labour, in ſucceſſion and purchaſe? And is it not ſo in Princes? with this onely difference, that their rights of government are derived from God immediately; for none but he can give a power of life and death: can therefore any one take away what they did not give? or can a ſupreme Prince looſe it by vice, who did not get it by vertue, but by gift from God? If a law were made to deveſt the Prince of his power in caſe of ill government, then he were not the man I mean, he is not ſupreme but ſubordinate, and did rule precariouſly, that is as long as his ſuperior judges will give him leave. But for the ſupreme he is ſacred and immured, juſt as the utmoſt orbs of heaven are uncircumſcrib'd; not that they are poſitively infinite, but becauſe there is nothing beyond them: ſo is the ſupreme Magiſtrate, nothing is above him but God: and therefore in his caſe we may uſe the words of *Livy*, *ſi quis adverſus eafeciſſet, nihil ultrà quam improbè factum adjecit lex*, If he does any thing againſt reaſon and juſtice, there is no more to be ſaid but that it was ill done. * But if he does not doe his duty, that's no warranty for me not to doe mine; and if obedience and patience be a duty, then the one is as neceſſary, and the other is more neceſſary when he does not doe what he ought. * And after all, the ſupreme power in every Chriſtian republick hath no power to kill a ſubject without law, nor to ſpoil him of his goods. Therefore neither can a ſubject kill or exauthorate the ſupreme at all; for there is no law to doe it: and if he be the ſupreme power, he is alſo law-giver, and therefore will make no ſuch law againſt himſelf; and if he did, he were neither wiſe nor juſt.

18. Either then ſtop all pretences, or admit all. If you admit any caſe in which the ſubjects may fight againſt their Prince, you muſt admit every caſe that he will pretend who is the judge of one. But becauſe Government is by God appointed to remedy the intolerable evils of confuſion and the violence and tyranny of every ſtrong villane, we muſt keep our ſelves there; for if we take the ſword, or the power, or the legiſlation, or the Judicature, or the impunity from the Supreme, we return to that ſtate of evil from whence we were brought by government. For certain it is, all the perſonal miſchiefs and injuſtices done by an evil Prince are infinitely more tolerable then the diſorders of a violent remedy againſt him. If there be not a *derniere reſort*, or a laſt appeal fixt ſomewhere, miſchiefs will be infinite; but the evils that come from that one place will ſoon be numbred, and eaſier ſuffered and cur'd.

19. It were eaſie to adde here the ſentences of the wiſe heathen to this very purpoſe; for though religion ſpeakes loudeſt in this article, yet nature her ſelf is vocal enough: but I have remark'd ſome already occaſionally, to the ſame ſenſe with that of *Tacitus*, *Imperatores bonos voto expetendos, qualeſcunque tolerandos*: So the wiſer *Romans* at laſt had learnt their duty. The ſame alſo was the ſentence of the Greeks;

Eurip. Τὰς τ' κρατούντων ἀμαθίας χρεὼν φέρειν,

We muſt patiently ſuffer the follies of our Rulers. So did the *Perſians*,

Claudian. ——*quamvis crudelibus, æquè*
Paretur Dominis,

Though the Lords be cruel, yet you muſt obey them as well as the gentle. But I am weary of ſo long telling a plain ſtory. He that is not determined by theſe things, I ſuppoſe will deſire to ſee no more. But if he does, he may pleaſe to ſee many more particulars in *Barclay*, in *Grotius*, in *Monſieur de la Noüe*, in *Albericus Gentilis*, in *Scipio Gentilis*, in Biſhop *Bilſon*, in *Petrus Gregorius* & *Bodinus*. I conclude, many ſupreme Princes have laid aſide their kingdomes, and have exchang'd them for honour and religion; and many ſubjects have laid aſide their ſupreme Princes or Magiſtrates, and have exchanged them for liberty and juſtice. But the one got, and the other loſt. *They* had real advantages; and *theſe* had words in preſent, and repentance in reverſion.

Rule IV.

The Supreme Civil Power is alſo Supreme Governour over all perſons and in all cauſes Eccleſiaſtical.

1. IF this Rule were not of great neceſſity for the conduct of Conſcience, as being a meaſure of determining all queſtions concerning the Sanction *of* and obedience *to* all Eccleſiaſtical lawes, the duty of Biſhops and Prieſts to their Princes, the neceſſity of their paying tribute, and diſcharging the burdens and relieving the neceſſities of the Republick, I ſhould have been unwilling to have medled with it; becauſe it hath ſo fierce oppoſition from the bigots of two parties, the *Guelphs* and the *Gibellines*, from *Rome* and from *Scotland*, from S. *Peter* and S. *Andrew*, the Papiſt and the Preſbyterian: and they have plac'd all their great intereſt and their greateſt paſſions upon this queſtion, and uſe not to be very kind to any man that ſhall at all oppoſe them.

2. From the Church of *Rome* we have many learned men, ſervants of the Pope, who affirm that all Government Eccleſiaſtical belongs to him; that he onely can make lawes of Religion, that in that he hath a compulſory over Kings, who are his ſubjects, dependant upon him, by him to be commanded in matters of religion; to which all temporalties are ſo ſubordinate, that if not directly, (as ſome of them ſay) yet indirectly, as moſt of them ſay, *in ordine ad Spirituale bonum*, for the good of the Church and

and of religion he can diſpoſe of them. The great defenders of this doctrine are [a] *Bellarmine* and [b] *Baronius*, [c] *Harding* and [d] *Eudæmon Johannes*, [e] *Fevardentius* and [f] *Mariana*, [g] *Boucher* and [h] *Ficklerus*, [i] *Alexander Carerius* and [k] *D. Marta*, [l] *Doleman*, and generally the Jeſuits, and all the Canoniſts.

a. De pontif. Rom. l. 2. c. 17. b. Annal. Eccleſ. c. Contr. Apol. Eccl. Angl. d. Contr. Epiſc. Elienſ. e. in Comment. in Eſther. f. in Theatr. g. de Juſta abdicat. Henric. 3. h. De jure Magiſtratuum. i. De poteſtate Papæ. k. De temp. et ſpirit. Pontif. poteſtate. l. Of the broken ſucceſſion.

3. On the other ſide, the Presbytery pretends mightily to the ſcepter of Jeſus Chriſt, as the Pope does to the Keyes of S. *Peter*, and they will have all Kings ſubmit to that; as there is all the reaſon in the world they ſhould: but by this ſcepter of Chriſt they mean their own claſſical meetings, and the Government that themſelves have ſet up the other day; to which the firſt inventer of it was at firſt forc'd pitifully to beg ſuffrages of allowance, and that it might be endur'd; but as ill weeds uſe to doe, it quickly grew up to that height, that like the Bramble it would be King, and all the birds and beaſts muſt come under the ſhadow of it. The great Maſters of this invention after *Calvin* are [m] *Beza*, [n] *Cartwright*, [o] *Lambertus Danæus*, [p] *Gellius Snecanus*, [q] *Guil. Bucanus*, *Hermannus Renecherus*, [r] *Buchanan*, [s] *Chriſtopher Goodman*, [t] *Brutus Celta*, [u] *Franciſc. Hottoman*, the Author of the Book called *Speculum tyrannidis Philippi Regis*, [x] and the Dialogues of *Philadelphus*: and if any one would ſee more of theſe, he may find enough of them in the writings of that Excellent and Prudent Prelate D^r *Bancroft* Archbiſhop of *Canterbury*.

m de Presbyterio. n in his laſt Reply. o Chriſtian. poliria. p lib. diſciplinæ. q loci comm. Theol. r Obſervat. in Pſal. 1. s De jure regni apud Scotos. t treatiſe of Obedience. u De jure magiſtratuum. w Francogallia. x Dial. 2. p. 65.

4. Concerning the pretences of the Church of *Rome*, they are as invalid as can be with t. For although there are ſome overtures of Scripture made, as *Tibi dabo claves*, and *Ecce duo gladii*, and *Paſce oves*, which are ſtrange arguments to conſidering perſons to prove the Pope ſuperiour to Kings, (and concerning them I ſhall not need to uſe any argument, but ſet down the words of the Biſhop of *Maeſtricht* in an excellent oration of his recorded by *Aventine*. *Ambitioſi & ſuperbi ſunt qui illud Domini Deique noſtri elogium, Quodcunque ſolveris ſuper terram*, &c. *& quodcunque ligaveris erit ligatum*, &c. *perfrictâ fronte interpretando adulterant, ſuæ libidini ſervire cogunt, & nobis ceu pueris, & omnium rerum imperitis, aſtu illudere ſtudent*, They that expound ſuch words of Chriſt to ſerve their pride or luſt of Empire are impudent, and think us to be fools and children, and fit to be coſen'd and fool'd out of our ſenſes:) yet theſe were made no uſe of to any ſuch purpoſe for many Ages after the Apoſtles death; and therefore upon wiſer accounts they cauſe this great article to rely upon ſome prudential motives, and ſome great precedents and examples. The particulars I ſhall conſider in the following numbers: but that which here lies in my way is their great boaſt of the fact of Pope *Zachary* depoſing *Childeric* King of *France* in the year 750, and appointing *Pepin* the Kings Marſhall to be King in his Room. Upon the warranty of this Example *Gregory* the 7^th endeavour'd to juſtify his proceedings againſt the Emperour *Henry* 4^th. *Bellarmine* will not endure with patience to hear that any one did this feat but the Pope onely; and on all hands they contend mightily that it was he, and not the Nobles and people of *France*. They indeed were willing but they had no authority, therefore they appeal'd to him as the Ordinary Judge; and he declared for *Pepin*, and God declared for that Judgement that it was according to his will: for the event was bleſſed, *Pepin* was proſperous, and his ſon *Charles* the Great grew a mighty Prince, and *France* a

lib. 5. Annal. Boior. Epiſt. ad Perimannum Epiſ. Metenſ.

potent Empire,and Religion and the Church had great increment and more advantages then before or ſince.

5. But when men judge of actions by the events,they onely ſhew themſelves willing to be coſen'd by proſperity,and that they will endure nothing that hath affliction with it; but ſo they become advocates for the greateſt villanies, becauſe they could never come to their greatneſſe if they were unproſperous. And therefore there is no judging of lawful or unlawful by the event, till the laſt event be tried: and at the day of our death and at the day of Judgement, the event of things is the beſt argument and the beſt trial of right and wrong. But beſides this, the folly of theſe men is infinitely ſeen in this very inſtance. For it is no wonder that the Church of *Rome* was proſperous and did thrive upon that change: *Pepin* and Pope *Zachary* helped one another and divided the ſpoil; and *Pepin* and *Charles* having no warranty and reputation in that treaſonable ſurprize of the Crown of *France*, but what they had from the opinion the world then had of the Biſhop of *Rome*, it concern'd *Charles* to advance the Papacy, that the Papacy might ſupport him. But *by all that is before him in this* world, a *man knows not whether he be worthy of love or hatred*, ſaith *Solomon*; and a mans fortune is *ſeen in his children*: and therefore if the Popes ſervants would look a little further then their own advantages, they might have conſider'd what is obſerved by *Paulus Æmilius* and *Beneventus of Imola*, that in the days of *Charles* the Great, who was ſon to *Pepin*, the Empire was divided; (which was the curſe in which God puniſh'd *Solomon* in the perſon of *Rehoboam*)that his ſon *Ludovicus Pius* was ſerv'd juſt as his Grandfather ſerv'd his Maſter the King, for his ſon *Lotharius* did moſt unnaturally rebel againſt him, depos'd him and thruſt him into a cloiſter; and that he himſelf felt the judgement of God, for himſelf alſo was depos'd, and ſucceeded to by *Lewis* the ſecond, who was proſperous in nothing, but in every undertaking the wind blew in his face. His ſon was *Ludovicus nihili*, ſo they call'd him; a cypher of a King, and ſtood for nothing. He indeed left an heire to the Crown: but he alſo was a man that had no heart, and his ſon had no head; for *Charles* the Bald was an extreme pitiful coward, and *Charles le groſs* was a fool. After theſe ſucceeded *Arnulph*, who was eaten up with lice, the ſad diſeaſe of *Herod*; and in his ſon *Lewis* the fourth that race was quite extinguiſh'd. And now if we judge of things by the event, have we not great reaſon even upon this account to ſuſpect the fact of *Zachary*, (though it was not his authority, but his conſent and his confederacy with the Rebel) to be extremely diſpleaſing to Almighty God, when there was not one of his line but went away with a ſhare of the Divine anger? But ſuch reaſonings as theſe concern none but them who feel them; they may ſuſpect the thing, and better examine their confidences when they feel any extraordinary evils, which moſt commonly are the conſequents of a great ſin and a mighty diſpleaſure. But others are to doe as they ſhould have done at firſt,goe by rule,and not venture upon the thing to ſee what will become of it. * Being now quit of this by which they have made ſo much noiſe; all their other little arguments will ſoon melt away when they come to be handled.

6. But as for the other pretenders (viz. thoſe of *the Presbytery*,) to a power ſuperior to Kings in Eccleſiaſtical Government; they have not yet proved themſelves to have received from Chriſt any power at all, to govern

vern in his Church; and therefore much leſſe by virtue of any ſuch power to rule over Kings. I doe therefore ſuppoſe theſe Gentlemen not much concerned in this queſtion, becauſe they are uncapable of making claime; not onely becauſe Religion is no pretence to Regalities, and that Spiritual power is of a nature wholly different from the power of Kings; but becauſe if the *Spiritual* were to be above the *Temporal*, yet even then they are not the better. For they have not onely none of that *Spiritual* power which can pretend to Government, but it does not yet appear that they have any at all: and this relies upon the infinite demonſtrations of Epiſcopal Government and power; which being one of the words and works of Chriſt, muſt needs be as firme as heaven and earth. *But if they be concern'd, they will be concluded.*

7. And firſt in general, it is neceſſary that the ſupreme power of Kings or States ſhould be governors in Religion, or elſe they are but half Kings at the beſt, * for the affaires of Religion are one half of the intereſt of mankind: and therefore the laws of the XII Tables made proviſion for religion as well as for the publick intereſt.

* *Cum jus conferendi opima ſacerdotia ab Henrico Imp. vi fuerat extortum, ea res (inquit Paulus AEmilius lib. 5.) multum virium Imperatoriæ Majeſtati detraxit in animis popularium, plus enim quam dimidium ſuæ jurisdictionis perdidit.*

Jus triplex tabulæ quod ter ſanxêre quaternæ
Sacrum, Privatum, & populi commune quod uſquam eſt. Auſon.

And this is ſo naturally and unalterably entail'd upon the ſupreme power, that when *Attalus* the King of the *Pergamenians* made the people of *Rome* his Heire with theſe words onely, *Populus Rom. bonorum meorum hæres eſto, Let the people of Rome be Heire of all my goods*; by [*His goods*] they underſtood, *Divina Humanáque, publica & privata*, ſaith *Eutropius*, & *Florus*, *all power in things publick and private, Humane and Divine.* For ſince Religion is that great intercourſe between God and us, it is impoſſible to deny to him who ſtands next to God the care of that by which we approach neareſt to him; and this I learn'd from *Juſtine. Jure ille à Diis proximus habetur per quem Deorum Majeſtas vindicatur, He is rightly plac'd next under God, by whom the Majeſty of God is aſſerted.* And therefore the Chriſtians muſt after their ſtyle, and no more ſay that the Prince is *homo à Deo ſecundus, & ſolo Deo minor*, (which are the words of *Tertullian*) next to God, and onely leſſe then him, if between God and the Prince there is all that great diſtance and interval of the Government of Religion. He is the beſt and greateſt perſon that rules the beſt and greateſt intereſt: and it was rightly obſerved of S. *Paul* concerning controverſies civil, for money or land, *Set them to judge who are leaſt eſteemed amongſt you*; for that is of the leaſt concerne: but he that is Judge of life and death, that is, the Governour of bodies, and he that governs the greateſt affaires of ſouls, he indeed ought to be of higheſt eſtimation. *Biſhops and Prieſts are the great Miniſters of Religion, but Kings are* the ἀρχηγοὶ the *great Rulers and Governours of it.* And this is eaſy to diſtinguiſh. For as the Kings Judges and Councel learned in the Law miniſter law to the people, yet the King is the ſupreme judge in law; and the Kings Captains and ſouldiers fight his battels, and yet he is *ſummus Imperator*, and the power of the *Militia* is his: ſo it is in religion, it muſt be miniſtred by perſons ordained to the ſervice, but govern'd by himſelf: He is not ſupreme unleſſe he have all the power of Government.

L. 4. Eutrop. L. 2. L. Flor.

lib. 8.

1 Cor. 6.

8. 2. The care of religion muſt needs belong to the ſupreme Magiſtrate, becauſe religion is the great inſtrument of political happineſſe: *ad magnas Reip. utilitates retinetur religio in civitatibus*, ſaith *Cicero*; and unleſſe he have power to manage and conduct it, and to take care it be rightly ordered, the ſupreme power hath not ſufficient to defend his charges. If the Prince cannot conduct his Religion, he is a ſupreme Prince juſt as if he had not the *militia*; or as if he were Judge of right but not of wrong; or as if he could reward but not puniſh; or as if he had cogniſance but of one half of the cauſes of his people; or as if he could rule at land but not at ſea, or by night but not by day. But how if an enemy comes with a fleet againſt him, will he ſend a Brigade of horſe to take a ſquadron of ſhips? The caſe is juſt the ſame; for if God breaks in upon a Nation for the evil adminiſtration of religion, how ſhall the Prince defend his people or anſwer to God for them? And this is no inconſiderable neceſſity: For beſides that juſtice and charity, and temperance and chaſtity, and doing good and avoiding evil are parts of religion, and yet great material parts of government and the laws, the experience of mankind and natural reaſon teaches us that nothing is ſo great a ſecurity or ruine to a State as the well or ill adminiſtration of Religion.

Lib. 2. de Divinat.

Horat.

Dii multa neglecti dederunt
Heſperiæ mala luctuoſe:

Orat. 5. in Verrem. and *Cicero*, *Omnia proſpera eveniunt colentibus deos, adverſa ſpernentibus, The people that have care of Religion are proſperous, but unhappy when they are irreligious.*

in Bacchis

ſυνέχει δ' ὦμα, ſaith *Euripides*; and

in Supplic.

Καλὸν δ' ἄγαλμα πόλεσιν εὐσεβὴς πόνος.

Religion is the band of families, and a ſtrong foundation to Commonwealths. Τὸ συνεκτικὸν ἁπάσης κοινωνίας καὶ νομοθεσίας ἔρεισμα, ſo *Plutarch*; *it is the ligature of all communities, and the firmament of lawes:* the ſame with that of *Syneſius*, εὐσέβεια πρῶτον ὑποβεβλήσθω κρηπὶς ἀσφαλὴς, ἐφ' ᾗ. ἑξεῖ τὸ ἄγαλμα ἔμπεδον τῆς βασιλείας, *Firſt let religion be ſetled, becauſe it is the ſtrong Baſe and columne upon which a Kingdome does relie.* And of this we have God himſelf a witneſſe: *Seek the Kingdome of heaven and the righteouſneſſe thereof in the firſt place, and all theſe things* [that is the neceſſaries of the world and of this life] *ſhall be added.* For ſo ſaith the Apoſtle, *Piety is profitable to all things, having the promiſe of the life that now is, and of that which is to come.* And to this that of *Homer* rarely accords,

Ὡς τε τυ ἢ βασιλῆος ἀμύμονος, ὅς τε θεουδὴς
Ἀνδράσιν ἐν πολλοῖσι καὶ ἰφθίμοισιν ἀνάσσων
Εὐδικίας ἀνέχησι, φέρησι δὲ γαῖα μέλαινα
Πυροὺς καὶ κριθάς, βριάθησι δὲ δένδρεα καρπῷ.
Τίκτει δ' ἔμπεδα μῆλα· θάλασσα δὲ παρέχει ἰχθῦς
Ἐξ εὐηγεσίης· ἀρετῶσι δὲ λαοὶ ὑπ' αὐτοῦ.

Novel. 42. The ſenſe of which is well enough rendred by that of *Juſtinian*, οὗπερ ἐν εἰρήνῃ φυλαττομένου, καὶ τὸ λοιπὸν ἡμῖν εὐθηνήσει πολίτευμα, that he would take care concerning Eccleſiaſtical government or the affaires of religion; *for if this be kept in peace, all the whole republick will be proſperouſly adminiſtred, reliqua nobis exuberabit politia.* So it is rendred by one of our *Saxon* Kings. The very trees will bring their fruit in due ſeaſon, and the ſea will give her fiſh, and the earth ſhall give her increaſe, when Kings take care of juſtice and religion. *By religion Princes increaſe their Empire. So † *Cicero* affirmes

* *Eorum imperiis remp. amplificatam qui religionibus paruiſſent, dixit Cicero,* de Nat. Deor. l. 2. † Orat. de aruſp. reſp.

of

of the *Romans, non calliditate ac robore, ſed pietate ac religione omnes gentes nationeſque ſuperaviſſe*, They overcame all the Nations not by force or craft, but by piety and religion. To which purpoſe is that of *Valerius Maximus, Non dubitaverunt ſacris Imperia ſervire: ita ſe rerum humanarum futura regimen exiſtimantia ſi Divinæ potentiæ bene atque conſtanter eſſent famulata, The Greateſt Empires made no ſcruple of miniſtring to Religion, as believing that then they ſhould moſt proſperouſly prevaile in the Governments of the world, if they well and conſtantly did ſervice to the Divine Almighty power.* Now this is not to be underſtood as if it meant that if a King were a good man and perſonally religious it would procure bleſſings for him and his people; though that be true in ſome proportion of events: but it ſignifies that they ſhould be religious Kings, that is, as ſuch take care to defend, to promote, to conduct and to govern it to advantages and for the honour of God. And this obſervation is made by S. *Auſtin* in his epiſtle to *Bonifacius. How doe Kings ſerve the Lord in fear, but by forbidding and by a religious ſeverity puniſhing thoſe things which are done againſt the Lords Commandements? For otherwiſe does he ſerve him as a Man, otherwiſe as a King. As a man he ſerves him by living faithfully: But as a King he ſerves him by eſtabliſhing laws, commanding righteouſneſſe, and forbidding the contrary. So did* Hezekiah *ſerve God by deſtroying the Groves and the idol Temples, and all thoſe things which were built againſt the Commands of God. In the like manner King* Joſiah *did ſerve God: and the King of* Nineveh *ſerv'd him by compelling all the city to ſerve the Lord. Thus King* Darius *ſerv'd God by delivering the idol to* Daniel *to be broken, and caſting his enemies into the Lions den: and* Nebuchadnezzar *ſerv'd him by forbidding by a terrible law all his ſubjects to blaſpheme. For in this, Kings ſerve the Lord as Kings, when they doe thoſe things for his ſervice which they cannot doe but as Kings.* Now if religion be the great intereſt, the preſerver, the enlarger of Kingdomes, it ought to be governed by the hands of theſe whoſe office it is to enlarge or to preſerve them. For if the inſtrument be conducted by other hands, the event ſhall depend upon them, and then they, not Kings, ſhall be anſwerable for the felicity or infelicity of their Nations. And it was rarely well ſaid of *Plutarch*, that *a city might be as well built in the aire, without earth to ſtand upon,* ἢ πολιτεία, τῆς περὶ θεῶν δόξης ἀναιρεθείσης, παντάπασι συστῆναι λαβεῖν, ἢ λαβοῦσα σῳθῆναι, *as a republick can either be conſtituted or preſerved without the ſupport of religion.* That ſupreme power therefore that hath no government of religion is defective in a neceſſary part of it's life and conſtitution. contra Colot.

9. 3. The ſupremacy and conduct of religion is neceſſary to the ſupreme power, becauſe without it he cannot in many caſes govern his people. For beſides that religion is the greateſt band of laws, and conſcience is the greateſt endearment of obedience, * and a ſecurity for Princes in cloſets and retirements, and his beſt guard againſt treaſons; it is alſo that by which the common people can be carried to any great or good or evil deſigne. And therefore *Livy* obſerves of *Numa*, that to eſtabliſh his Government he firſt ſetled religion, as ſuppoſing that nothing is more powerful to lead the people gently, or to drive them furiouſly, then to imprint in them the fear of God, or to ſcare them with religion. And therefore the Prince cannot rule without it: He is but the ſhadow

* *Solo ſacramento inclyti principes tuti ſunt*, Symmach. *lib.* 10. *ep.* 54. *Maximum, dicente Catone, majoribus noſtris telum, ex quo plures pace ſuſceptæ quam bello gentes fuere devictæ, quo ſolo continetur omnis ſocietas, & diſſoluto diſſolvitur.* Appius *lib.* 6. *in fin. Omnium primum, rem ad multitudinem imperitam, & illis ſeculis rudem efficaciſſimam, Deorum metum injiciendum ratus eſt.* Livius *lib.* 1. *Primum enim militiæ vinculum eſt religio, & ſignorum amor, & deſerendi nefas.* Senec. *epiſt.* 96.

ſhadow of a King and the ſervant of his Prieſts; and if they rule religion, they may alſo rule him. And that for two great cauſes.

10. 1. Becauſe the propoſitions and opinions of religion have and are directly intended to have great influence upon the whole life and all the actions of mankind. For how if the Miniſters of religion preach the Stoical fate, and that all things that come to paſs are unalterably predetermin'd, who need to care how he ſerves God, or how he ſerves his Prince? *Suetonius* ſaies of *Tiberius*, that he was *religionis negligentior, quippe perſuaſionis plenus cuncta fato agi, careleſs of religion, becauſe he was fully perſwaded that all things came by deſtiny.* To what purpoſe are laws or puniſhments, rewards and dignities, priſons and axes, rods and Lictors, when it is injuſtice to puniſh a criminal for being unavoidably miſerable? and then all government is at an end when there can be no vertue nor vice, no juſtice nor injuſtice: for what is alike neceſſary, is equally juſt. But upon ſome ſuch account as this *Plato* ſaid that they are not to be ſuffered in a Commonwealth who ſaid that God is the Author of evil. * And what are likely to be the effects of that perſwaſion which is a great ingredient in the religion of ſome men, [That *Dominion is founded in grace*; that evil Princes may be depoſed; that hereticks may be excommunicated, and their ſubjects abſolved from the oath of their allegiance; that faith is not to be kept with hereticks; that it is lawful to tell a lie before a Magiſtrate, provided we think up the truth; that Kings are but executioners of the decrees of the Presbytery; that all things ought to be in common?] By ſuch propoſitions as theſe it is eaſy to overthrow the ſtate of any Commonwealth; and how ſhall the Prince help himſelf, if he have not power to forbid theſe and the like dangerous doctrines? A Common-wealth fram'd well by laws and a wiſe adminiſtration, can by any one of theſe be fram'd anew and overturn'd. It is therefore neceſſary that the Prince hold one end of this ſtaff, leſt himſelf be ſmitten on the head.

11. 2. The other great cauſe is this, Becauſe religion hath great influence upon perſons as well as actions; and if a falſe religion be ſet on foot, a religion that does not come from God, a religion that onely pretends God, but fears him not, they that conduct it can lead on the people to the moſt deſperate villanies and machinations. We read in the life of *Henry* the third of *England*, that when he had promis'd any thing to his Nobility that he had no mind to perform, he would preſently ſend to the Pope for a Bull of diſpenſation, and ſuppos'd himſelf acquitted: and who could ſuffer ſuch a religion that deſtroyed the being of contracts and ſocieties, or bear the evils conſequent to ſuch a religion? And of the ſame nature, but ſomething worſe in the inſtance, is that which *Arnaldus Ferronius* tels of, that the *Roman* Lawyers anſwer'd to *Ferdinandus Davalus*, that at the command of the Pope he might take up arms againſt the Emperour *Charls* the fifth, his Prince, without any guilt of Treaſon. And it was yet very much worſe which was done and ſaid by the Pope *John* 22. againſt the Emperor *Lewis* the 4. *Quod ſi nobis obtemperare detrectaverit, Patriarchis, Epiſcopis, cunctis Sacerdotibus, Principibus, Civitatibus imperamus ut eundem deſerant, ac nobis parere cogant*, Patriarchs and Princes, Biſhops and Prieſts were not onely allowed, but commanded to forſake their Emperour, & to compel him to obey the Biſhop of *Rome*. By theſe and much more it appears, the evil Miniſters of a falſe religion have great powers of doing what they pleaſe:

Matth. Weſtmonaſt. in Henr. 3.

lib. 8. Rerum Gallicar.

Aventin. lib. 7. Annal.

Nam

Nam faciunt animos humiles formidine Divûm,
Depreſſoſque premunt ad terram.——

They make the people abſolute ſlaves, and lift them up again with boldneſs to doe miſchief. Ἐτοιμότατον εἰς δεισιδαιμονίαν τὸ βαρβαρικὸν, ſaid *Plutarch*, *The rude people are eaſy and apt to ſuperſtition*: and when they are in, they are ready for any violence. *Superſtitione qui eſt imbutus quietus eſſe non poteſt*, ſaid *Cicero*: they cannot be quiet when they have got a wild propoſition by the end. And this is too much verified by the hiſtories of almoſt all nations: for there is none but hath ſmarted deeply by the factions and hypocriſies of Religion. The Prieſts of *Jupiter* in the Iſland of *Meroe* did often ſend the people to kill their Kings. *Eunus* a Roman ſlave arm'd 60000 men upon pretence of a religious extaſy and inſpiration, *Maricus* in *France* did the like: ſo did an *Egyptian* in the time of *Claudius* the Emperor, mention'd by *Joſephus*, who led after him 30000. men againſt the *Romans*. The two falſe Chriſts, the one in the time of *Veſpaſian*, the other under *Hadrian*, prevailed to the extreme ruine of their miſerable country-men. *Leo* & the Turkiſh Annals tell us ſtrange events & overthrows of Government brought to paſs by the arts of religion in the hands of *Elmahel* and *Chemin Mennal* in *Africa*: the firſt taking the Kingdome of *Morocco* from *Abraham* their King, together with his life; the other forcing the King of *Feſſe* to yield unto him the Kingdome of *Temeſna*. In *Aſia Shacoculis* of the *Perſian* Sect by his religion arm'd great numbers of men, and in three great battails overthrew the Turkiſh power, and put to hazard all their Empire.

in Sertorio.

Diod. Sicul. lib. 5. c. 10. Florus lib. 3. c. 16.

lib 2. De bello Judaico cap. 11.

12. They that knew none of theſe ſtories did know others like them, and at leaſt knew the force of religion to effect what changes pleaſed them who had the conduct of it; and therefore all wiſe Princes, ancient and modern, took care to prevent the evil by ſuch remedies and arts of government as were in their hands. Three remedies were found out; two by men, and one by God.

13. 1. The ancient governments of the world kept themſelves and their people to the religion of their nation, that which did comply with their government, that which they were ſure would cauſe no diſturbance, as being that which was a part of the Government, was bred up with it, and was her younger ſiſter; but of forraigne rights and ſtrange and new religions they were infinitely impatient: by the prohibition and excluſion of which by their civil laws, as the ſupreme power ſecur'd the intereſt and peace of the republick, ſo it gave demonſtration that the civil power was ſupreme alſo in the religion. Upon this account we find that *Ariſtotle* and *Anaxagoras* were accuſed; *Socrates* and *Protagoras* were condemn'd, for holding opinions and teaching contrary to the religion of their country, and it was uſual with the *Athenians* ſo to proceed: ſo *Joſephus* writes of them, ὥστε καὶ τὸν ἅπαξ μόνον περὶ τῶν ἐκείνοις νόμιμων φθεγξάμενον περὶ θεῶν ἀπειρημένων κολάζειν, *they did ſeverely puniſh any man that ſpeak but a word againſt the religion eſtabliſhed by law.* The *Scythians* alſo put *Anacharſis* to death for celebrating the feaſt of *Bacchus* by the *Grecian* rights——For theſe nations accounted their country gods to be entertain'd and endear'd by their country religion, and that they were diſpleas'd with any new ceremonies. But this thing was moſt remarkable in the ſtate of *Rome*. For this was one of the charges which they gave to the *Ædiles*, *Ne qui niſi Romani Dii neque*

lib. 2. contra Appion.

Liv. lib. 15.

alio

alio more quam patrio colerentur. And *Marcus Æmilius* recited a Decree to
Liv. lib. 39. this purpoſe, *Ne quis in publico ſacrove loco novo aut externo ritu ſacrificaret.* And this they made a ſolemn buſineſs of, ſaith *Livy*, *quoties Patrum Avorumque ætate negotium Magiſtratibus datum eſt ut ſacra externa fieri vetarent, In the daies of our Anceſtors they often made laws forbidding any ſtranger rites*; but commanded that onely their own country gods ſhould be worſhipped, and that after their country manner. For this was enjoyned in the laws of the XII. Tables, *Nemo ſeparatim Deos cabeſſit.* No man muſt have a religion of his own, but that which is appointed by laws. And upon this ſtock *Claudius* baniſhed the Jews from *Rome*, and quite extinguiſh'd the ſuperſtition of the *Druides*, which *Auguſtus Cæſar* had ſo often prohibited. But moſt full to this purpoſe is the Narrative which *Dio* makes of the counſel which *Mecænas* gave to young *Octavian*, τὸ μὲν θεῖον πάντη πάντως αὐτός τε σέβου καὶ τὰ πάτρια κὴ τὸς ἄλλους ἡμᾶν ἀνάγκαζε· τὸς δ' ξενίζοντάς τι περὶ αὐτὸ μίσει κὴ κόλαζε, ὅτι καινά τινα δαιμόνια οἱ τοιοῦτοι ἀνθισφέροντες πολλὸς ἀναπείθουσιν ἀλλοδαπονομεῖν· κἀκ τούτου κὴ συνωμοσίαι κὴ συνάσεις ἐπιρρεῖαί τι γίγνονται, *Worſhip God alwaies and every where according to your Country Cuſtoms, and compel others ſo to doe: but hate and puniſh the bringers in of ſtrange religions; becauſe they who bring in new Deities and formes of worſhip, they perſuade men to receive other laws, and make leagues, Covenants, factions and confederacies.*

14. And therefore to prevent innovations in religion, the *Romans* often inquir'd after thoſe who had books of ſtrange religions, and when they
Liv. 5. dec. 3. & lib. 10. dec. 4. found any they burn'd them; as we find in *Livy* and *Suetonius*. They would not ſuffer the rites of religion to be publickly diſputed: and *Auguſtus*
in Auguſto, c. 31. would not have the Cauſes of the Rites of *Ceres* heard in open Court. And when *Ptolemy* of *Egypt* was preſs'd to hear the Controverſy between the *Jewes* and the *Samaritans* concerning the Antiquity of their Religion, he would not admit any ſuch diſpute, till the Advocates would undertake their cauſe to be juſt upon the pain of death, ſo that they who were overcome in the cauſe ſhould die for it; and that they ſhould uſe no arguments but thoſe which were taken from the received laws of their Coun-
Joſeph. lib. 13. Antiq. Judic. c. 6. try, the law of *Moſes*: they did ſo, and the advocates of the *Samaritan* party being overcome were put to death. For they knew that to introduce a new religion with fierceneſſe and zeal would cauſe diſturbances and commotions in the Common-wealth; and none are ſo ſharp, ſo dangerous and inteſtine as thoſe which are ſtirred by religion. *Pro aris & focis* is the greateſt of all contentions, for their Countrey religion and their Countrey dwellings: *for their Altars and their hearths even old women and children will carry clubs and ſcalding water.* * This caution therefore was alſo obſerv'd by
* Novel. 103. c. 2. Chriſtian Princes. *Juſtinian* gave in charge to the *Proconſul* of *Paleſtine* to prevent all popular tumults which from many cauſes uſe to diſturb the Province, *tum vero maximè ex diverſitate religionum.... quandoquidem ut multos illic tumultus exiſtere cernimus, neque leves horum eventus: but eſpecially thoſe that proceed from diverſities of religion; for this begets many tumults, and theſe uſually ſit very heavy upon the Common-wealth*: the changes of religion being moſt commonly the moſt deſperate paroxyſmes that can happen in a ſickly ſtate. Which *Leontius* Bp. of *Antioch* expreſs'd prettily by an Emblem; for ſtroaking of his old white head, he ſaid, *When this ſnow is diſſolv'd, a great deal of dirty weather would follow*: meaning when the old religion ſhould be queſtion'd and diſcountenanc'd, the new religions

religions would bring nothing but trouble and unquietneſſe.

15. This courſe of forbidding new religions is certainly very prudent, & infinitely juſt and pious. Not that it is lawful for a Prince to perſecute the religion of any other Nation, or the private opinion of any one within his owne; but that he ſuffer none to be ſuperinduc'd to his owne to the danger of peace and publick tranquillity. The perſuaſions of religion are not to be compell'd: but the diſturbances by religion are to be reſtrained by the laws. And if any change upon juſt reaſon is to be made, let it be made by authority of the ſupreme: *ut reſpublica ſalva ſit*; that he may take care that peace and bleſſings may not goe away to give place to a new probleme. When it is in the Princes hands he can make it to comply with the publick laws, which he then does beſt of all when he makes it to become a law it ſelf. But againſt the law no man is to be permitted to bring in new religions, excepting him onely who can change the law, and ſecure the peace. Beyond this no compulſion is to be us'd in religion: πεοτρεπλικὴ γὰρ ἡ πᾶσα θεοσέβεια ζωῆς τῆς νῦν καὶ τῆς μελλούσης ὄρεξιν ἐγγεννῶσα τῆ συγγενεῖ λογισμῷ, ſaid S. *Clemens Alexandrinus*, *All religion muſt enter by exhortation*; for it is intended *to beget a deſire in our mind that is of the ſame cognation, a deſire of the life that now is, and of that which is to come.* The ſame with that of *Theodoricus* King of the *Romans*, *Religionem imperare non poſſumus, quia nemo cogitur ut credat invitus*: and *Theobaldus* writing to the Emperor *Juſtinian* argued well, *Since God himſelf is pleas'd to permit many religions, we dare not by force impoſe any one*; *for we remember to have read that we muſt ſacrifice to God with a willing mind, not by the command of any one that compels.* And therefore the old *Romans*, the *Greeks*, the *Scythians*, although they would admit no new religion amongſt their own people, would permit to every Nation to retain their own; by this practice of theirs declaring that religion is not tobe forc'd abroad, nor chang'd at home, but that it was by the ſupreme power of the Republick to be conducted ſo as to comply with the intereſt of the Commonwealth. This was the firſt remedy againſt the evils of religious pretences; which by being conducted in the hands of the Civil power ſhews *that* to be ſupreme even in the Queſtions of Religion.

lib. 1. Pædag. c. 1.

apud Caſſiodorum, lib. 2. Variar. ep. 27.

lib. 10. ep. 26.

16. 2. The other which was found out by Men, is that they did take the prieſthood into the hands of the ſupreme civil power; and then they were ſure that all was ſafe. The *Egyptians* choſe their prieſts out of their Schools of learning, and their Kings out of their Colledges of Prieſts. The Kings of *Aritia*, a place not far from *Alba*, were alſo prieſts of *Diana*: The ſame is reported of the prieſts of *Bellona*, that they were the Kings of *Cappodocia*, ſaith *Hirtius*; and the prieſts of *Pantheon* were ſupreme Judges of all cauſes, and conductors of all their warres. The Kings of *Perſia* were alwayes conſecrated to be Princes of the ceremonies, ſo was the King of *Lacedæmon*: and at this day the Kings of *Malabar* are alſo *Bramenes* or prieſts; and it was a law amongſt the *Romans*, *Sacrorum omnium poteſtas ſub Regibus eſto*, The power of religion and all holy things was to be under their Kings: and *Virgil* ever brings in his Prince *Æneas* as preſident of the ſacrifical rites; and of ſomething to the ſame purpoſe *Ovid* makes mention,

Marſil. Ficin. in præfat. lib. Triſmeg.

Strabo lib. 5.

In bell. Alexandr.

Diod. Sicul. l. 6. c. 10.

lib. 10. Æneid.

Utque ea nunc certa eſt, ita Rex placare Superna
Numina lanigeræ conjuge debet ovis.

Faſtor.

The King with the ſacrifice of a Ram was to appeaſe the Gods. So did *Romulus* and *Numa*; *Romulus auſpiciis, Numa ſacris conſtitutis fundamenta jecerunt Romanæ civitatis*, ſaid *Cicero*: they built *Rome*, and religion was the foundation of the city. And the ſame cuſtome deſcended with the ſucceeding Kings, as *Dionyſius Halicarnaſſæus* reports, Πρῶτον μὲ ἱερῶν καὶ θυσιῶν ἡγεμονίαν εἶχεν, καὶ πάντα δι' ἐκείνου πράττεσθαι τὰ πρὸς θεὸς ὁσίως, *They had the government of all ſacrifices and holy rites, and whatſoever was to be done to the Holy Gods, was done by them.*

lib. 2. De nat. Deor.

17. When afterwards they ſeparated the prieſthood from the civil power, they appointed a ſacrificing King to take care of the rites, but they kept him from all intermedling with civil affaires; he might beare no office in the Common-wealth, nor have any imployment in the army, nor make an oration to the people, nor meddle with publick affaires: and yet beſides this caution, the ſupreme Magiſtrate was *Pontifex Maximus*; and although he did not uſually handle the rites, yet when he pleas'd he made laws concerning the Religion, and puniſh'd the *Augurs*, and the *Veſtal* virgins, and was ſuperior to the *Rex ſacrorum*, and the whole College of prieſts.

Feſtus Pompeius, lib. 17. Dionyſ. Halic. lib. 4. A. Gell. lib. 10. cap. 15. Liv. lib. 2.

18. But when the Common-wealth was changed into Monarchy, *Auguſtus* annexed the great Pontificate to the Imperial dignity, and it deſcended even to the Chriſtian Emperors, who becauſe it was an honourary title, and was nothing but a power of diſpoſing religion, they at firſt refus'd it not: but upon this account it was that *Tacitus* ſaid of the *Roman* Emperor, *nunc Deûm munere ſummum Pontificem ſummum hominum eſſe*, *The greateſt prieſt is alſo the greateſt* Prince.* Now this device of theirs would indeed doe their buſineſſe, but it was more then was needfull. For though it were certain that religion in the hands of the ſupreme Magiſtrate ſhould never diſturb the publick; yet it might be as ſure if the Miniſtery were in other hands, and the Empire and conduct of it in their own. And that was Gods way.

Annal. lib. 3.

19. 3. For God hath intruſted Kings with the care of the Church, with the cuſtody of both the Tables of his Law, with the defence of all the perſons of his Empire; and their charge is to preſerve their people in all godlineſſe and honeſty, in peace and in tranquillity: and how this can be done without the ſupreme care and Government of religion is not eaſie to be underſtood.

4. But this appears in that Kings, that is, the ſupreme power of every Nation, are vicegerents of Chriſt, who is *Head of the Church, and Heire of all things*; *He ruleth with a rod of iron*; *He is Prince of the Kings of the earth*; *The onely potentate, King of Kings and Lord of lords*; *To him is given all power in Heaven and Earth, and by him Kings reigne.* So S. *Athanaſius*, * λαμβάνων ὐν ὁ Χριστὸς τὸν θρόνον μετέστησεν αὐτὸν καὶ ἔδωκε τοῖς ἁγίοις Χριστιανῶν βασιλεῦσιν ἐπαναστρέψαι τύτους ὅτι τὸν οἶκον Ἰακὼβ, *Chriſt taking his throne hath tranſlated it & given it to holy Chriſtian Kings to return them back to the houſe of Jacob.* The Fathers of the Council of *Ariminum* writing to *Conſtantius* the Arrian Emperor, ſay to him, that by Chriſt he had his Empire given him; δι' ὃ [Χριστοῦ] σοὶ καὶ τὸ βασιλεύειν ὕτως ὑπῆρξεν ὡς καὶ τῆς καθ' ἡμᾶς οἰκυμένης κρατεῖν, *By him thou art*

Hebr. 1. 2. Revel. 1. 5. 11. 17. 17. 14. 19. 16. 1 Tim. 6. 15. Matth. 28. 18. * Serm. de B. Virg.

art appointed to reigne over all the world. And upon this account *Libetius* gave him this advice, μὴ μάχου πρὸς τὸν δεδωκότα σοι τῷ ἀρχῷ ταύτῃ· μὴ ἀντ' εὐχαριστίας ἀσεβήσῃς εἰς αὐτὸν, *Fight not againſt him who hath given thee this Empire; and in ſtead of thanksgivings, pay him not with diſhonour.* For the Prince being an Arrian and denying the Divinity of Chriſt, did diſhonour the Prince of the Kings of the earth, who had deſerved better at his hands. The conſequent of this conſideration is this, If Chriſt as the ſupreme King does rule his Church, and in this kingdome hath deputed the kings of the earth, and his vicars they are, then they are immediately under him in the Government of Chriſts Church. For Chriſt in Heaven is both King and Prieſt. As King he reigns over all the world for the glory of his Father and the good of his elect; as Prieſt he intercedes for all mankind, and particularly *for them who ſhall be heires of Salvation.* Now in both theſe relations he hath on earth deputed certain perſons to adminiſter and to imitate his kingdome and prieſthood reſpectively. For he governs all the world, but he does it by his Angel Miniſters, and by Kings his deputies. He officiates in his prieſthood himſelf, and in this he hath no deputy; for he intercedes for us continually: but he hath appointed an order of holy and conſecrated perſons to imitate the offices of this prieſthood, to miniſter the bleſſings of it to the people, to repreſent the death of the Croſſe, to preach pardon of ſins to the penitent, to reconcile lapſed and returning ſinners, that is, to miniſter to the people all the bleſſings which he by the office of prieſthood procures in Heaven for us. Now it is certain that he hath made deputies of his Kingdome; for all power being given to him as the great King, there can be no Government upon earth but what he appoints. *The Government is upon his ſhoulders*, and all the earth is his inheritance, and therefore from him all juſt Government is deriv'd. Now it being manifeſt that he is the fountain of all Kingly power, it is alſo as manifeſt that all this power is delegated to the Kings of the earth; for *by me Kings reigne*, ſaith the wiſdome of God, and it is one of his moſt glorious appellatives, that he is *Prince of the Kings of the earth*; and it is as certain that none of this kingly power was given to the miniſters of religion, but expreſsly denied to them. *The Kings of Nations exerciſe dominion*; that's their province: *but it ſhall not be ſo amongſt you: But he that is greateſt amongſt you let him be your miniſter.* That's your ſtate, you are miniſters of the kingdome to other purpoſes, in other manners; you doe your work by ſerving, by humility, by charity, by labours and compliance, by gentle treatments and the gentleſt exhortations; nothing of a King is to be in you, but the care: ὅτι σωπλεῖν τῷ βασιλείαν τῇ ἱεροσωμῃ συγκλώθειν δεῖ τὰ ἀσύγκλωστα, *for to joyne the kingdome and the prieſthood Evangelical is to joyne in one band things of the moſt differing nature:* Syneſ. for the name of Kings hath power and conſtraint, Rods and axes; the name of prieſts and Apoſtles hath in it nothing but gentle manners and holy miniſteries. Kings can compel; the miniſters of religion muſt intreat. They can kill; but at the moſt theſe can but rebuke ſharply. Theſe can cut off from ſpiritual communion, and deny to give them myſteries that will hurt the wicked and the indiſpos'd; but they can cut them off from life it ſelf. Kings juſtly ſeek honours, wealth and dignity, and it is allowed them by laws and by neceſſity, and by their reaſon: But prieſts muſt *not ſeek their owne, but only the things of Jeſus Chriſt.* They muſt indeed be maintain'd; the oxe cannot labour if his mouth be muſled: but though this be his maintenance it muſt be no part of his reward. Our bleſ-

Matth. 20. 25. ſed Saviours word is rendred by S. *Matthew* by κατακυριεύειν, The Kings of the people doe rule Imperiouſly. This very word is alſo us'd by S. *Peter*, and forbidden to the elders of the Church, and to it is oppos'd ποιμαίνειν, to feed the flock like ſhepherds. The manner of κυριεύειν us'd by S. *Paul*, or κατακυριεύειν us'd by S. *Matthew* and S. *Peter*, *the exerciſing dominion* is *compulſion*, and great riches: this is alſo forbidden to the Clergy, they muſt not doe any thing ἀναγκαστῶς, nor αἰσχροκερδῶς, not *for profit to themſelves*, not *with violence* or *impoſing neceſſity upon others*. The Miniſters of religion are very conſiderable *in this Kingdome* of Chriſt, to promote and to advance it by holy preachings and holy miniſtrations: but it is true which was ſolemnly declar'd in *Babylon* to the prince of the Captives, *officium ipſi non poteſtatem injungi, et ab eo die incipiendum ipſi ſervire omnibus*; their eminency is nothing but an eminency of ſervice, it is the greateſt miniſtery in the kingdome, but hath in it the leaſt of Empire. But of this I ſhall have occaſion to give a fuller account. For the preſent, that which the preſent argument intends to perſwade is, that the Miniſters of religion are onely officers under Chriſts prieſthood, but ſubjects in his kingdome, which is adminiſtred by Angels and Chriſtian princes in all the Imperial, in the defenſive and coactive parts and powers of it. The Chriſtian King or ſupreme magiſtrate can doe every thing πλὴν μόνου τοῦ ἱερουργεῖν, as *Comatenus* ſaid, *onely except the ſacred Miniſteries*: which is the ſame which was ſaid by the famous Biſhop of *Corduba*, *Hoſius* in *Athanaſius*; *Neque igitur fas eſt nobis in terris Imperium tenere, neque tu ſacrorum et thymiamatum habes poteſtatem, Imperator, hoc eſt jus adolendi.* The good Biſhop was ſpeaking of the fact of *Oxias*, who though he had power over the prieſts, yet had nothing to do to meddle with the rites of prieſthood: *It is not lawful for us to meddle with Empire or the rights of Government*; *nor for thee, O Emperour, with the rites of incenſe.* The ſumme is this, If Chriſt by his kingly power governs his Church, and Chriſtian Kings are his Deputies, then they alſo are the Supreme under Chriſt of the whole Government of the Church.

20. 5. So that now I ſhall not need to make uſe of the precedents of the Old Teſtament, nor recite how *David* order'd the courſes of the *Levites*, the uſe of the bow in the Quire, the ſolemnities of publick ſervice, nor how *Solomon* put *Abiathar* from the High-prieſthood, nor how *Jehu*, nor *Hezekiah*, nor *Joſiah* reform'd religion, pull'd down Idols, burnt the groves, deſtroyed the worſhip of *Baal*, reduc'd the religion of the God of *Iſrael*. This indeed is an excellent argument, becauſe it was a time in which God gave his Prieſts more ſecular eminency and external advantages then ever he did ſince, and alſo becauſe Chriſt chang'd nothing in the kingdomes of the earth; he left them as he found them, onely he intended to make them miniſters and portions of his kingdome; and that they ſhould live privately, and govern publickly by his meaſures, that is, by the juſtice and mercy Evangelical. But this argument I was the more willing to touch upon becauſe the Church of *England* much relies upon it in this queſtion, and excommunicates thoſe who deny the Supreme civil power to have the ſame authority in cauſes Eccleſiaſtical, which the pious Kings of the *Hebrews* had over the Synagogue: But I find the ancient Doctors of the Church preſſing much upon the former *medium*, That Chriſt hath ſpecially intruſted his Church to Chriſtian Princes. For,

6. Chriſt

21. 6. Chriſt ſhall call Chriſtian Kings to account for ſouls. *Cognoſcant Principes ſeculi Deo ſe debere rationem reddere propter Eccleſiam quam à Chriſto tuendam ſuſcipiunt. Nam ſive augeatur pax & diſciplina Eccleſiæ per fideles Principes, ſive ſolvatur, ille ab eis rationem exigit qui eorum poteſtati ſuam Eccleſiam credidit,* ſaid *Iſidore Hiſpalenſis. Let the Princes of the world know that they muſt give an account to God for the Church which they have received from Chriſt into their Protection. For whether the peace and Diſcipline of the Church be encreaſed by faithful Princes, or whether it be diſſolv'd, he who hath intruſted his Church to their power will exact an account from them.* And therefore P. *Leo* to *Leo* the Emperor gave this advertiſement, *Debes incunctanter advertere Regiam poteſtatem tibi non ſolum ad mundi regimen, ſed maximè ad Eccleſiæ præſidium eſſe collatam, You muſt diligently remember that the ſupreme power is given to you not onely for the government of the world, but eſpecially for the ſafety and defence of the Church.* Now this defence not being onely the defence of guards, but of lawes, not onely of perſons, but eſpecially of Religion, muſt needs inferre that Kings have ſomething more to doe in the Church then the Court of Guards hath: he defends his ſubjects in the ſervice of God; he defends and promotes this ſervice; he is not to defend them if they diſſerve Chriſt, but to puniſh them, and of this he is Judge and Exactor: and therefore this defence declares his right and Empire. *Ex quo Imperatores facti ſunt Chriſtiani res Eccleſiæ ab ipſis dependiſſe:* ſo *Socrates* expreſſes this queſtion. *Ever ſince the Emperors became Chriſtian the affaires of the Church have depended upon them.* They did ſo before, but they did not look after them: they had the power from Chriſt, but they wanted his grace: they owed duty to him, but they paied it not, becauſe they had no love for him. And therefore Chriſt took what care he pleas'd, and ſupported it in perſecution, and made it grow in deſpite of oppoſition: and when this he had done long enough to prove that the religion came from God, that it loſt nothing by perſecution, but that his ſervants loved him and died for him, then he called the Princes into the houſe of *Jacob*, and taught them how to adminiſter his power to the purpoſes of his own deſignement. Hence come thoſe expreſſions us'd often by Antiquity concerning Kings, calling them *Vicarios Dei, veræ religionis Rectores, εὐσεβείας καὶ πίστεως ἀρχηγούς, the Deputies of God, Governours of true Religion, the Captains and Conductors of faith and Godlineſſe; ad quorum curam, de qua Deo rationem reddituri erant, res illa maximè pertinebat,* For to their care Religion and the Church did belong, and concerning that care they were to give an account to God.

in Sent. c. 51.

Epiſt. 75.

S. Auguſt. Ep. 166.

22. Now if we deſcend to a conſideration of the particular charges and offices of Kings in relation to the Church, it will not onely be a mighty verification of the Rule, but alſo will miniſter to the determination of many caſes of Conſcience concerning Kings and concerning the whole order Eccleſiaſtical. This I ſhall doe in the following Rules, which are but appendices to this.

Rule V.

Kings have a legiſlative power in the affaires of Religion and the Church.

1. THis is expreſſely taught by S. *Auſtin. In hoc Reges ſicut eis divinitus præcipitur Deo ſerviunt in quantum Reges ſunt, ſi in ſuo regno bona jubeant, mala prohibeant, non ſolùm quæ pertinent ad humanam ſocietatem, verùm etiam quæ pertinent ad Divinam religionem, In this Kings in that capacity ſerve God according to the Divine Commandement, if in their reſpective kingdomes they command good things and forbid evil, not onely in relation to humane ſociety, but in order to religion.*

Contr. Creſcon. l. 3. c. 51.

2. The leaſt part of this power is to permit the free exerciſe of it, and to remove all impediments, and to give it advantages of free aſſemblies, and competent maintenances and juſt rewards and publick encouragements. So *Cyrus* and *Darius* gave leave and guards and reſcripts, warranty and proviſions and command to the Jewes of the Captivity to build the Temple. So *Conſtantine* and *Licinius* did to the Chriſtians to practiſe their religion. Thus *Hezekiah* and ſome other pious Kings of the Hebrews took away the offences of the people, the brazen ſerpent, the groves and images, the altar of *Bethel*, and the idolatrous ſervices. And of theſe things there is little queſtion; for the Chriſtian Princes by their Authority ſhut up the Temples of the Heathen Gods.

3. That which is yet more conſiderable is, that by puniſhments they compel their Subjects to ſerve God and keep his Commandements. That which was obſerved of the Primitive Chriſtians, that they tied themſelves by oaths and Covenants to ſerve God, to doe juſtice, not to commit adultery, to hurt no man by word or deed, to doe good to every man they could, to aſſemble together to worſhip Chriſt, that Chriſtian Princes are to ſecure by laws, that what men will not doe by choice, they may whether they will or no; and this not onely in things relating to publick peace and the intereſt of the Republick, but in the immediate matters of religion: ſuch as are laws againſt ſwearing, againſt Blaſphemy, againſt drunkenneſſe and fornication and the like, in which the intereſt of ſouls is concerned, but not the intereſt of publick peace. *Hoc jubent Imperatores quod jubet Chriſtus*; and it is a great ſervice to Chriſt that the fear of men be ſuperadded; becauſe to wicked perſons and ſuch for whom the ſeverity of laws was made, it often prevailes more then the fear of God.

4. But that which is more then all this is, that beſides thoſe things in which God hath declar'd his will, the things of the Church, which are directly under no Commandement of God, are under the ſupreme power of Chriſtian Princes. I need no other teſtimony for this but the laws themſelves which they made, and to which Biſhops and Prieſts were obediene and profeſs'd that they ought to be ſo. And this we find in the inſtance of

of divers Popes who in their epiſtles gave command to their Clergy to obſerve ſuch laws which themſelves had received from Imperial edicts. For there are divers laws which are by *Gratian* thruſt into his collection which were the laws of Chriſtian Princes. The Canon *Judicantem.* 13. *q.* 5. expreſſing the office of a Judge in the Cognſance of cauſes, attributed by *Gratian* to Pope *Eleutherius*, was a law made by the Emperor *Conſtantine*, *l.* 1. *C. de Judic. C. Theodoſ.* and ſo was that which was attributed to *P. Fabian* againſt accuſers, *Can. ſi quis iratus:* it is in the Theodoſian Code and was made by the ſame Prince. The Canons which goe under the names of [a] *Sixtus* and [b] *Adrian* and *Fabian* before cited of the ſame title were made by *Gratian* the ſonne of *Valentinian* the Elder: who alſo made the reſcripts for reſtitution of Church-goods taken from Biſhops when they were forc'd from their Sees, attributed to Pope *Caius* and Pope *John. Theodoſius* the Emperour made the *Canon qui ratione* * for order in accuſations, which yet is attributed to Pope *Damaſus*, but is in the Theodoſian Code: for thus the Popes eaſily became law-givers when they adopted into the Canon the laws of their Princes, which by their authority prevail'd beyond the memory of their firſt makers. The Canon *Conſanguineos*, for ſeparation of marriage within the prohibited degrees, was not the Popes, but made by *Theodoſius*, as it is thought, at the inſtance of S. *Ambroſe:* and *Valentinian* made the Canon *Privilegia* for confirmation of the privileges of the Church, which goes under the Name of *Anacletus*. I could reckon divers others, for indeed the volume of the *Decrees* is full of ſuch conſtitutions which the Chriſtian Emperors made, but they were either aſſumed by the Popes or imputed to them. But that the Popes as Eccleſiaſtics had no authority to make laws of Eccleſiaſtical affaires, but that the Emperors had, was ſufficiently acknowledged by Pope *Honorius. Imperator Juſtinianus decrevit ut Canones Patrum vim legum habere oporteat, That the Canons of the Fathers became a law in the Church, was by the conſtitution of the Emperor Juſtinian.* For that was all the end both of the labours of warre and the Counſels of peace, *ut veram Dei cultum orbis noſtri plebs devota cuſtodiat*, ſaid *Theodoſius* and *Honorius* in their letters to *Marcellinus: that our people may devoutly follow the true worſhip of God.*

[a] 43. q. 6. c. 16, 17. & 2. q. 8. c. 4.
[b] 2. q. 3. c. 3.
[c] 3. q. 6. c. 1.
* 3. q. 9.
35. q. 6.
25. q. 2.
c. 1. Ext. de juram. calum.

5. Upon this account we find that *Conſtantine*, *Anaſtaſius* and *Juſtinian* made laws concerning the expence and rites of ſepulture. *Gratian*, *Valentinian* and *Theodoſius* forbad dead corps to be interred within the memorials of Martyrs and Apoſtles. *Honorius* appointed the Number of Deanes in the *Metropolis*, and the Immunities of every Church. *Leo* and *Anthemius* forbad alienation of Church-lands. But what ſhould I inſtance in particulars? they that know not this are wholly ſtrangers to the Civil law, particularly the firſt book of the Code, the Authentics, the Capitulars of the French Princes, the laws of the *Goths* and *Vandals*, and indeed of all the Chriſtian Princes of the world. But the firſt titles of the Code, *De ſumma Trinitate & fide Catholica*, *De ſacroſanctis Eccleſiis*, *De Epiſcopis & Clericis*, *De Epiſcopali Audientia*, *De hæreticis*, *Manichæis*, *Samaritis*, *De Apoſtatis*, and divers other are witneſſes beyond exception. * Now in this there is no exception of matter. For whatſoever is under Government is alſo under the laws of Princes: μηδὲν ἄβατον ἐστιν εἰς ζήτησιν τῇ βασιλείᾳ, ſaid *Juſtinian*. Nothing comes amiſſe to the Prince, every thing is under the Royal cogniſance. *Conſtantine* made laws concerning feſtivals, and appointed what labours might and what might not be done upon the Lords

Novel. 133.

C. de feriis. l. 3. & Cod. Theod. de fer. l. 1. Leo. 6. Novel. 54. † Epiſt. 31. * Ep. 2. ad Nepotian.

day; and ſo did *Leo* the Emperour. *Valentinian* the Elder made a law that no Clergy-man ſhould receive an inheritance by the will or gift of widdows and orphans, unleſſe they were of the Kindred. *S.* † *Ambroſe* complains heavily of the law, and ſo does *S.* **Hierome*, but confeſſes it was juſt, and procur'd by the avarice of ſome Clergy-men who under cover of religion made a prey of the widdows. But this Decree was ſent to Pope *Damaſus* and publickly read in the Churches of *Rome*. And *Honorius* the Emperor made a law concerning the election of the Pope. Which two laſt inſtances I reckon to be very great, becauſe at *Rome* now-a-daies they are intolerable.

6. But if all theſe laws were made by Emperors onely by force, againſt right & juſtice, & beyond their juſt power, then we are never the nearer for this argument: & that it is ſo, *Baronius* is bold to affirm, who upon this title blames *Juſtinian* for medling with the affaires of the Church: for *Quid Imperatori cum Eccleſia? what hath the Emperor to doe with the Church?* we know who ſaid it. And therefore a Synod at *Rome* under *Symmachus* abrogated a law made by *Baſilius* a Deputy of King *Odoacer* in an aſſembly of Eccleſiaſtical perſons, in the vacancy of the See Apoſtolick, upon the death of *Simplicius*. Now the law was a good law, it forbad the alienation of the goods of the Church; yet becauſe it was a law made by a laick, they thought fit to annul it.

tom. 7. A. D. 541.

7. To theſe things I anſwer, that it matters not what *Baronius* ſays againſt *Juſtinian*, for Pope *Hadrian* the 4th, who is much more to be credited, commends him, & propounds him as a great Example imitable by all Princes: and it was not *Juſtinian* alone, but very many other Princes both before and after *Juſtinian*: and therefore to ask *what hath the Emperour to doe with the Church?* might become *Donatus* (whoſe ſaying it was, and whom S. *Auſtin* confuted for ſaying ſo) but it becomes not any man that loves truth and order. As for the *Roman* Synod under *Symmachus*, the matter was this. He would needs make himſelf head of a Synod without the Biſhop, (for he was lately dead) and made a law with an *Anathema* for the Sanction, and would have it paſſe not for the law of the Prince, but for a law of the Church; which becauſe the Eccleſiaſtics had no reaſon to accept for ſuch, when it was not ſo, they did annul it: *talem legem viribus carere, nec poſſe inter Eccleſiaſtica ullo modo cenſeri*, ſaid *Eulalius* the Bp. of *Syracuſe* in that Synod. *But that this makes nothing againſt the Prince his power of making laws, appears by the great ſubmiſſion which even the Biſhops of *Rome* themſelves made to the Imperial laws, even when they lik'd them, and when they lik'd them not. I inſtanc'd before in *Damaſus* cauſing the law of *Valentinian* againſt Clergy-men receiving inheritances from widdows to be read in all the Churches of *Rome*. Pope *Boniface* conſented to the law which *Honorius* the Emperor made about the election of the Pope, and was ſo far from repudiating an Eccleſiaſtical law made by the Prince, that he intreated him to make it. But that which is moſt material to this inquiry is, the obedience of S. *Gregory* the great to *Mauritius* the Emperor, who made a law that no Souldier ſhould turn Monk without his leave. This S. *Gregory* eſteem'd to be an impious law, he modeſtly admoniſhed the Emperour of the irreligion of it. But *Maurice* nevertheleſſe commanded him to publiſh the law. The good Biſhop knew his duty, obeyed the Prince, ſent it up and down the Empire, and gave this account of it: *Utrobique qua debui exolvi, qui Imperatori obedientiam prabui, & pro Deo quod ſenſi minimè*

apud Radenon. in Frider. lib. 1. cap. 15.

Epiſt. 166.

l. 2. ind. 11. ep. 61.

tacui,

tacui, I have done both my dutyes, I have declar'd my mind for God, and have paid my duty and obedience to the Emperour. Legibus tuis ipſi quoque parent Religionis Antiſtites, ſaid Pope *Gelaſius* to *Anaſtaſius* the Emperor. Epiſt. 10. Even the Biſhops, the *Miniſters of Religion, obey thy laws.* Now this is not for decency onely, & upon prudent conſiderations, but upon neceſſity and by the Divine authority: *cognoſcentes Imperium tibi ſupernâ diſpoſitione collatum,* as *knowing that the Empire is given to thee by God.* And therefore the great Prelates of the Church, when they deſir'd a good law for the Churches advantage ſhould be made, they preſently addreſs'd themſelves to the Emperor, as to him who alone had the legiſlative power. I have already inſtanc'd in pope *Boniface* intreating *Honorius* to make a law concerning the election of the Pope. *Sergius* alſo Patriarch of *Conſtantinople* petition'd the Emperor *Heraclius* to publiſh a pragmatic ſanction that no man ſhould be admitted into the Clergy but into a dead place. * Theſe things are ſo plain, that I may juſtly uſe the words of the Fathers of the 6th Council of c. 14. *Toledo,* ſpeaking of *Chintillanus* their King, *Nefas eſt in dubium deducere ejus poteſtatem cui omnium gubernatio ſuperno conſtat delegata judicio, It is impiety to call in queſtion his power, to whom the Government of all is certainly deputed by the Divine Judgement.* I therefore conclude this particular with the excellent words of Cardinal *Cuſanus. It becomes not any man to* lib. 2. Cath. *ſay that the moſt ſacred Emperors, who for the good of the Republick did make* Concord. c. 40. *many conſtitutions concerning the election of Biſhops, collation of benefices, obſervation of religions, did erre. Nay, we have read that the Pope of* Rome *hath intreated them that they would publiſh laws concerning Divine worſhip, & for the publick good, and againſt ſinners of the Clergy. And leſt peradventure it be ſaid that the ſtrength of all theſe Conſtitutions did depend upon the approbation of the Authority Apoſtolical or Synodical* [*viz. of the Pope or Council*] *I will not inſiſt upon this: although (let me ſay this) I have read and collected fourſcore and ſix chapters of Eccleſiaſtical Rules of the Antient Emperors, which were to no purpoſe to inſert here, and many other of* Charles *the Great and his ſucceſſors, in which many diſpoſitions or appointments are to be found concerning the Pope of* Rome, *and all Patriarchs, and the conſervation of Biſhops and others; and yet I never read that ever any Pope was ask'd to approve thoſe laws, or if his approbation did intervene, that upon that account the laws did bind. But it is read that ſome Popes of* Rome *have confeſs'd that they had thoſe Imperial laws in veneration.* And this thing is ſo true and ſo publickly known, that the *French* Embaſſadors openly told it in the Council of *Trent*, that the Kings of *France*, by the Example of *Conſtantine, Theodoſius, Valentinian, Juſtinian* and other Chriſtian Emperors, made many laws concerning holy things, and that theſe did not onely not diſpleaſe the *Roman* Biſhops, but they put many of them into their Canons: that the chiefeſt Authors of theſe laws, *Charles* the Great and *Lewis* the ninth, they thought worthy to be Canonis'd and declar'd Saints, and that the Biſhops of *France* and the whole order Eccleſiaſtical have piouſly rul'd and govern'd the *Gallican* Church by the preſcript of thoſe Eccleſiaſtical laws which their Kings had made.

Rule

Rule VI.

The Supreme Civil Power hath a power of Coercion of every perſon in the whole Order Eccleſiaſtical.

1. He that ſayes all muſt be ſubject, need not inſtance in particulars, and ſay that *Titius* and *Sempronius*, and the village Curate, and the Biſhop of the Dioceſe muſt be ſubject. But yet becauſe of the pretences of ſome, the Fathers of the Church have found it neceſſary to ſay, that even Eccleſiaſtics muſt be ſubject; and that they are a part of the all. So S. *Chryſoſtome* explicating the words of S. *Paul*, ſaith [*But Paul gives us thoſe reaſons which command us of duty to obey the powers; ſhewing that theſe things are commanded to all, not to Seculars only, but to Prieſts and Monks: which he ſhewes in the very beginning, when he ſaith, Let every ſoule be ſubject to the ſupereminent powers; although thou beeſt an Apoſtle, or an Evangeliſt, or a Prophet. For this obedience or ſubjection (be ſure) will not deſtroy thy piety.* That S. *Chryſoſtom* here ſpeaks of ſecular powers is evident in the whole Homily, and it appears alſo in the words here reported; for he ſayes that even an Apoſtle muſt be ſubject, who becauſe he hath no Superior Eccleſiaſtical muſt be ſubject (if at all) to the Secular, or Supreme Civil power. And this place is ſo underſtood by S. *Irenæus lib.* 1. *cap.* 24. S. *Baſil in Conſtit. monaſt. cap.* 22. S. *Ambroſe* upon this place, and S. *Auſtin lib. de Catech. rud. c.* 21. and *contr. Parmen. l.* 1. *c.* 7. who expreſſely derides thoſe that expound the [*higher powers* of S. *Paul*] by Eccleſiaſtical honours.

Homil. 13. in Epiſt. ad Rom.

2. But this thing is evident by notoreity of fact. *Theodoret* tells of *Euſebius* Biſhop of *Samoſata*, that when the Imperial edict of baniſhing him from his See, and ſending him into *Thrace*, was brought by a meſſenger in the twilight, he charg'd him to ſay nothing, leſt the people ſhould tear the officer in pieces. But the Biſhop according to his cuſtome went to evening prayer; and then with one ſervant, with a book and a pillow went to the water ſide, took a boat and paſs'd over to *Zeugma*. The people having ſoon miſs'd their Biſhop, followed him, found him out, would fain have brought him back; but he refus'd, and told them is was the precept of the Apoſtle, to be obedient to the higher powers: and upon that he reſted, and they return'd. And the ſame was the ſubmiſſion, and the ſame was the reaſon of S. *Athanaſius*, as appears in his Apology to *Conſtantius* the Arrian Emperor; and the ſame ſubjection was profeſſed by *Juſtin Martyr* to *Antoninus* the Emperor, *Nos ſolum Deum adoramus, et vobis in rebus aliis læti inſervimus, Imperatores ac Principes hominum profitentes, We onely worſhip God, in other things we chearfully ſerve you, as profeſſing you to be Emperors and the Princes of mankind. Ego quidem juſſioni ſubjectus,* ſaid S. *Gregory* to *Mauritius*, I am ſubject to command: and then it is certain, he was ſubject to puniſhment in caſe he diſobeyed the command. *Ad hoc poteſtas ſuper omnes homines Dominorum meorum pietati cœlitus data eſt.* He had no more immunity then any man elſe, for from heaven a power is given

Hiſt. l. 4. c. 15.

Apolog. 2.

Epiſt. ad Mauritium.

given to the Prince over all men. The effect of this inſtance and theſe words of *Gregory* is acknowledged by *Eſpencaus*, *Gregorius Magnus agnoſcebat Imperatoribus conceſſum eſſe dominari Sacerdotibus, Gregory the Great acknowledged that to the Emperors it was granted to rule over the Prieſts.* And the ſame was affirmed by Pope *Honorius*, *Sancta Eccleſia legum ſæcularium non reſpuit famulatum quæ æquitatis & juſtitiæ veſtigia imitantur, The Holy Church refuſes not to obey ſecular lawes that are equal and juſt.*

Comm. in Tit. 1.

de Privileg. c. ſuper ſpecula. c. innotuit, de Arbitr. c. 1. de No. oper. nunc. c. conſtitutus de In integr. reſtitut. c. authoritate, de Conceſs. præb. in 6.

But I undertook to evidence the truth of this Rule by matter of fact and authentic precedents. *Conſtantine* received the Libells which the Biſhops at *Nice* had prepar'd one againſt another. He told them indeed that it was more fit for them to judge him, then he them, and therefore he burn'd the papers; but this ſignified nothing but that it was a ſhame to them whoſe office was to reprove all ſinners, to accuſe one another of crimes before their Prince. But that this was nothing but a modeſt redargution of them appears, becauſe he did upon their condemnation of *Arrius* baniſh him, and recalled him without their abſolution of him. He baniſh'd *Euſebius* and *Theognis*, whom the Council had depos'd, and took cogniſance of the cauſe between *Athanaſius* and the Biſhops his accuſers; that it might appear what he had ſaid to the Prelates at *Nice* was but a modeſt reproof or a civil complement, for it was *proteſtatio contra factum*. If he ſaid that, he ſaid one thing and did another. * His ſon *Conſtantius* caus'd *Stephen* Biſhop of *Antioch* to be convened in the palace upon the law *de vi publica*, and the *lex Cornelia de ſicariis*. His lay-Judges heard him, found him guilty, and commanded the Biſhops to depoſe him from his Biſhoprick and expel him out of the Church. His brother *Conſtans* heard *Narciſſus* of *Cilicia*, *Marcus* the *Syrian*, *Theodore* of *Thrace* and *Maris* of *Chalcedon* againſt *Athanaſius* and *Paul* Biſhop of *Conſtantiople*. *Valentinian* the Emperor ſet a fine upon the head of *Chronopius* the Biſhop, and inflicted divers puniſhments upon the Biſhops *Urſicinus*, *Ruffus*, *Urſus* and *Gaudentius* for making ſchiſmes to the diſturbance of the publick peace. *Gratian* the Emperor depos'd *Inſtantius*, *Salvianus* and *Priſcillian* from their biſhopris and baniſh'd them, and afterwards recall'd them. *Arcadius* the Emperour heard S. *Chryſoſtom's* cauſe and baniſh'd him; and Pope *Innocent*, who found fault becauſe he gave wrong Judgment, yet blam'd him not for uſurping of a right to judge him. *Theodoſius* the yonger impriſon'd Biſhop *Memnon* and S. *Cyril* of *Alexandria*. Indeed the Prince was miſinform'd by John of *Antioch*; but when by the Great *Epheſine* council, he was rightly inſtructed, he condemn'd *John* of *Antioch*, and afterwards releaſed the two Biſhops at the great & paſſionate * petition and importunity of the Council of *Epheſus*. And when *Ibas* Biſhop of *Edeſſa* had excommunicated ſome prieſts of his Dioceſe, they appeal'd to the Emperor and were heard. *Theodoric* King of *Italy* receiv'd accuſations againſt Pope *Symmachus*, and ſent *Altinus* a Biſhop to be the viſitor of that See, and afterwards remitted the matter to a ſynod. *Juſtinus* the Emperor gave judgment upon *Dorotheus* Biſhop of *Theſſalonica* for ſedition and homicide. *Juſtinian* baniſh'd *Julian* the Biſhop of *Halicarnaſſus*, *Severus* Biſhop of *Antioch*, *Peter* of *Apamea* and *Zoaras* a Prieſt: but he alſo judged the cauſe of Pope *Sylverius* for certain treaſonable letters; and recalled him from baniſhment, but ſo that he ſhould not be reſtor'd to his See, unleſſe he were found innocent of the accuſation.

Vide Athan. de Synod. Socrat. l. 1. c. 25. Sozom. l. 2. c. 28.

Theodor. l. 1. c. 20. id. ibid. c. 31.

Athanaſ. Apol. 2

Socrat. l. 2. c. 14. Sozom. l. 3. c. 9. l. 2. Quorum appel. Cod. Theod.

Socrat. l. 6. c. 16.

* *Veſtra pia genua protenſis manibus attingimus.* Anaſtaſ. bibliopth. in Symmacho. Epiſt. Hormiſdæ 56, 57. Novel. 42. et ponitur in Concil. Gen. 5. Act. 1. Liberatus in Breviar. c. 22.

4. I could reckon very many more inſtances to the ſame purpoſe, but theſe are as good as more; eſpecially being but particulars of that power and juſt conſequence of that authority which I have prov'd by the lawes of God and the confeſſions of the Church to be inherent in the Supreme power. I ſumme up this with the words of *Balſamo.* *Quia ſtatutum eſt nullum per alium injuriâ afficiendum, ipſe Patriarcha ab Imperatore, qui Eccleſiæ habet poteſtatis ſcientiam, judicabitur forte ut ſacrilegus, vel malè de fide ſentiens, vel alicujus criminis reus: Hoc enim judicialiter actum vidimus diverſis temporibus,* *Becauſe it is commanded that one man ſhould not injure another, the Patriarch himſelf ſhall be judged of the Emperor, who hath cogniſance over the power of the Church peradventure for ſacrilege, or for hereſy, or for the guilt of any other crime; for we have divers times ſeen ſuch judicial proceſſes.* And to the ſame purpoſe the ſeventh Canon of the firſt Council of *Matiſcon* ſubjects the Clergy to the ſecular Judge in the cauſes of theft, witchcraft and murder; and the Council of *Toledo* which is cited c. filiis 16. q. 7. does the like in the matter of robbery or coſenage. For either Clergy-men are not ſubjects, or they are bound by the lawes of their Prince. If they be not ſubjects, how come they free? If they be ſubjects, where is their privilege? or is the Spiritual calling of a nature ſo diſparate and eſtrang'd from the Commonwealth, that it is no part of it? or is it better then the Secular? The queſtions are worthy inquiring after; but the deciſion of them will take off many prejudices from this great meaſure of Conſcience, concerning the fountain of humane lawes and Judicatories.

ad Can. 12. ſyn. Antioch.

5. But upon a cloſer view of the particulars it will be found that the whole matter is a miſtake; a falſe conſequence drawn from a true eſtimate of religion: For all men grant that religion is the greateſt excellency, that our ſoules are the biggeſt intereſt, that all our wealth is beſt imployed when it is ſpent in Gods ſervice, that all things muſt yield to our duty to God: Theſe are all very true, as every thing elſe is when it is truly underſtood; but what then? Therefore the miniſters of religion are to be preferred before the miniſters of policy? Well, ſuppoſe that, for it is true that every thing is beſt in it's own place and time. But what? therefore *the miniſters of religion are ſuperior to Princes,* whoſe Government & care, whoſe office and imployment is meerly temporall? That will not follow; nor this, Therefore *the miniſters of religion are in all things better*; nor this, Therefore *they are in nothing inferior*; nor this, Therefore *they are not ſubject to Civil Government, and civil puniſhments.* But theſe things muſt be conſidered apart.

I. Queſtion.

In what ſenſe the ſervice of God is to be preferr'd before every thing elſe.

6. To this I anſwer, 1. That if the ſervice of God be taken in a ſenſe oppos'd to any other thing which is not the ſervice of God, there is no peradventure but it is to be preferred before every thing; for the queſtion is no more then this, whether we ought to ſerve God, or not to ſerve him. For if that which is not Gods ſervice comes in competition with that which is, if the firſt be preferr'd, God is directly deſpis'd.

2. If

7. 2. If by the ſervice of God is meant the vertue of religion expreſs'd in externall action, as ſaying our Prayers, receiving the holy Sacrament, viſiting Churches, ſitting at the memorials of Martyrs, contemplation, faſting, ſilence, ſolitude, and the like, then it is as certain that the ſervice of God in this ſenſe is to be preferred before many things, but not before all things; not before many things of our ordinary life, not before many things of civil ſociety. For to keep a holy-day is a part of the ſervice of God, but not to be preferred before bodily labour in our trade, if that labour be neceſſary for the feeding our family with daily bread. Contemplation is an excellent part of the Divine ſervice; but charitable actions are more uſeful. To heare a good Sermon is good; but to ſnatch even an oxe out of a pit is to be preferr'd before it. This our Bleſſed Saviour taught us in thoſe excellent words, *I will have mercy and not ſacrifice*. For not onely the preciſe vertue of religion is the Divine ſervice, though by propriety it hath obtain'd the name: but the doing all our duties, the works of our calling, all charitable miniſteries, all uſeful trades, all the graces of the ſpirit expreſſed in actions and obedience, is the ſervice of God, and of one it cannot be ſaid, it is better then another; for they ſhall all be requir'd in their ſeaſon. For,

8. 3. It is one thing to inquire which is in it ſelf more excellent, and another thing to ask which we are to chuſe; one thing to ſay this is to be preferr'd in eſtimation, and another to ſay this is to be preferr'd in practice. Ecſtaſies and raptures and converſing with bleſſed ſpirits are certainly actions and paſſions reſpectively of greater eminency then dreſſing the ſores of poor boyes in Hoſpitals; and yet he that does this, ſerves Chriſt and does good, while he that followes after the others may fall into the deluſions of the Devil. That which is beſt in it ſelf is not beſt for me: it is beſt for the beſt ſtate, but not for the ſtate of men who dwell in imperfection. Strong meat is better then milk, but this is beſt for babes; and therefore he would but ill conſult to the good of his child who, becauſe it is a princely boy, would feed him with bief and veniſon, wild boare and the juice of great fiſhes. Certainly a Jewel is better then a piece of frize; and Gold is a more noble and perfect ſubſtance then barly: and yet frize and barly doe in their ſeaſon more good then gold and Jewels, and are therefore much more eligible. For every thing is to be accounted of in it's own place and ſcene of eminency: the eye loves one beſt, and the tongue and palate, the throat and ſtomack love the other. But the underſtanding which conſiders both gives the value according to the degree of uſefulneſſe, and to the end of it's miniſtery. Now though our underſtanding can conſider things in their own perfections, and proportion honour and value to them; yet that which is better then *honour*, love and deſire, union and fruition are due to thoſe things moſt, which it may be we *honour* leaſt. And therefore there are ſome parts of the ſervice of God which are like meat and cloths, and ſome which are like gold and Jewels; we value and admire theſe, but we are to chuſe the other: that is, we preferre one in diſcourſe, and the other in uſe; we give better words to one, and better uſages to the other. And therefore thoſe parts of the Divine ſervice which are moſt neceſſary, and doe moſt good to mankind, are to be choſen before thoſe that look more ſplendidly, and in themſelves import more perfection. The foundation of a houſe is better then the roof, though the roof be gilded; and that part of the ſervice of God which ſerves the needs of mankind

moſt, is to be choſen before thoſe which adorn him better: ſo that actions of high and preciſe religion may be the excellencies and perfections of a humane ſoul; but the offices of civil governours, their keeping men in peace and juſtice, their affrighting them from vile impieties, may doe much more good to mankind, and more glory to God in the whole event of things.

9. 4. But then if it be inquir'd whether is better, Prayers or Government, a Pulpit or a Court of Judicature; I am to anſwer that they are both beſt in their time. The Pulpit rules on Sundays, the Court of Judicature all the week after. The Pulpit guides the Court, and the Court gives laws to the Pulpit. The Pulpit gives counſel to this, and this gives commands to that. But there is this difference, if the Pulpit ſays amiſſe we are not bound by it: but if the Court judges ill, we may complain, but we muſt ſubmit. But then to inquire which is better, when they are both the ſervants of God, is to make a faction in the houſe of Unity; and as there can be no good end ſerved in it, ſo there can be no good ground of reaſon or revelation by which it can be determin'd.

10. 5. If the queſtion at laſt be, whether is to be preferr'd, the ſervice of God, that is, an act of religion, or an act of civil life; I anſwer, that ordinarily religion is to be preferr'd, when there can be a queſtion reaſonably ask'd which is to be choſen. That is, if it be indifferent as to the perſon, there is no indifference in the thing: for the religious act does more honour to God and more good to us. But it is becauſe that where our life and time is empty of other duties, then and there is the time and proper ſeaſon of religion. But if it be not indifferent to the man, but an act of life or civil calling be in it's ſeaſon and appointment, then this is to be preferr'd before that.

11. 6. Laſtly, it is to be obſerved, that there are ſeaſons ordinary and extraordinary in our ſervices of God. Every thing in it's ſeaſon is to be preferr'd: and therefore upon Feſtivals we are to goe to Church and to publick offices, upon other days to follow the works of our calling: and ſo prefer both in their time. But ſometimes theſe ordinary ſeaſons are invaded by extraordinary neceſſities, and then that muſt prevail which is moſt neceſſary in it's ſeaſon, and the other muſt give place. Now becauſe this happens often in the needs of our life, and not very often in the needs of Religion, therefore in caſes of Natural or Political neceſſities, the things of the Commonwealth are to be preferr'd before the things of the Church; that is, the ſervice of God in charity before the ſervice of God in the vertue of external religion: and the reaſon is, becauſe this can ſtay, and the other cannot; and this can be ſupplied with the internall, that is, the religion of the heart, but that cannot be ſupplied with the charity of the heart.

Queſtion

Queſtion II.

Which are to be preferr'd, and which are better, things Spiritual or things temporal?

12. To this the Patrons of Eccleſiaſtic Monarchy give a ready anſwer out of S. *Gregory Nazianzen*, ſpeaking to the Preſidents. *Nam vos quoque poteſtati meæ meisque ſubſelliis lex Chriſti ſubjicit. Imperium enim ipſi quoque gerimus, addo etiam præſtantius ac perfectius; niſi verò æquum eſt ſpiritum carni faſces ſubmittere, & cæleſtia terrenis cedere, The law of Chriſt hath ſubjected you alſo that are civil Magiſtrates to my chaire. For we alſo have an Empire, yea a better and more perfect then yours, unleſſe it be reaſonable that the Spirit ſhould ſubmit to the Fleſh, and heavenly things give place to earthly.* For temporal things belong to the body, and ſpiritual things to the ſoul: by how much therefore the ſoul is above the body, by ſo much ſpiritual things are above the temporal. For a temporal end is and ought to be ſubordinate to a ſpiritual; becauſe temporal felicity is not the laſt end of man, but ſpiritual and eternal: this therefore being the greateſt, ought to be miniſtred to by the ceſſion of the temporal.

Orat. 15. ad ſubd. tim. percul.

13. To this I anſwer, that temporal things ought to yield to *ſpiritual*, if by ſpiritual things be meant the glory of God, and the good of ſouls, but not to every thing that is ſpiritual. For though it be a ſpiritual imployment to ſerve God in the communion of Saints, and the life of a man be a temporal thing; yet a man is not bound to loſe his life to goe to publick churches, but for his own ſouls ſalvation, for the promotion of religion and the honour of God he is. A man is very much better then a beaſt; yet the life of a beaſt is better then the ſuperfluous hair of a mans beard. The honour and reverent uſage of Churches is a ſpiritual concern and a matter of religion; and yet when an army is hard put to it, they may defend themſelves by the walls and ſtrength, and preſerve their lives with an uſage of the Church, which was never intended by the patron that built it, or the Biſhop that conſecrated it. When temporal life and eternal are compar'd, when the honour of God or *the advantage* of a man are ſet in oppoſition, when the *ſalvation of a ſoul* and *the profit of trade* are confronted, there is no peradventure but the *temporal* muſt give way to the *ſpiritual*. But when a *temporal neceſſity* and a *ſpirituall advantage* are compar'd, the advantage in the nature of the thing is overballanc'd by the degree of the neceſſity, and the greatneſſe of the end: and it is better to ſell the chalices of the Church, and miniſter to religion in glaſſe or wood, then to ſuffer a man to ſtarve at the foot of the Altar. The conſequent of this conſideration is this, That although ſpiritual things are better then temporal, yet not every thing of ſpiritual nature or relation is to be preferr'd before all temporals.

14. 2. Another conſideration is this, that there is difference alſo in the degrees and meaſures of ceſſion or yielding. Temporal things muſt yield, that is, we muſt ſo order our affaires that by them we ſerve God; our money muſt goe forth in juſtice and charity, our time muſt yield up portions to religion, our perſons muſt decline no labour for Gods ſervice, and if ever there comes a conteſt between our duty and our profit, or our eaſe, or our

advantage, we muſt by the loſſe of theſe ſecure our gaines and our intereſt in that. But this preferment of one before another does not conſiſt in giving to one ſecular advantages before the other, temporal honours, and precedences in proceſſions, in eſcutcheons and atchievements, but in doing the duty of that which is incumbent, and making the other miniſter to that which is more neceſſary. He that preferres religion before the world is not tied to beſtow more money upon his chappel then upon his houſe. If God had choſen him one place of reſidence, and a Temple for his houſe and for the religion of the Nation, as he did among the Jews, there had been a great decency & duty of doing ſo upon many accounts; for then the queſtion had been between religion and irreligion, zeal and contempt, love of God and neglect; and then the determination had been eaſy. But now ſince the whole end of internal Religion can be ſerv'd by giving to places of religion that adornment which may make the miniſteries decent and fitted, and of advantage; beyond this, when we come to a diſpute between that which is in order to a ſpiritual end, and that which ſerves a temporal, more things are to come into conſideration beſides the dignity of the relation.

15. 3. For it is yet further to be obſerved, that when it is ſaid that all temporal things are ſubordinate to our Spiritual ends, the meaning is, that all the actions of our life, all that we are, and all that we have, muſt be directed actually or habitually to the great end of man, the glorification of God and the ſalvation of our ſouls; becauſe God hath ordain'd this whole life in order to that; and therefore in the generality it is true that all temporal things are to miniſter to ſpiritual. But then this is to be added, that temporal things are not ordain'd to miniſter to ſpiritual intermedial things, ſuch, I mean, which are not directly and in circumſtances neceſſary. I muſt ſerve God with my ſubſtance; therefore I muſt by my ſubſtance contribute to the juſt and appointed miniſteries of religion: but it does not follow, that if the Church multiply Prieſts unneceſſarily, and God hath multiplied my children naturally, that therefore I muſt let my children want to feed the numerous company of them that can miniſter ſpiritual things. The whole is ſubordinate to the whole, that is all our temporalities are given us to ſerve God with: but then they are given us alſo to ſerve our own needs that we may ſerve God; but they are not any other ways ſubordinate, but to enable us to ſerve him, not to ſerve the particular ſpiritual end, unleſſe it be by accident, that is, not unleſſe we cannot ſerve God without it.

16. 4. For temporal things and ſpiritual things have both the ſame ſupernatural end, that is, Gods glory and eternal felicity. And ſometimes they ſeverally tend to this end, and then they are to goe their own ways, and not to miniſter and be ſubordinate to each other. But ſometimes they are to combine and to cooperate, and then temporal things muſt ſerve ſpiritual, and ſpiritual muſt ſerve the temporal. For example. The Temporal or Civil power hath for it's end publick tranquillity, that men may ſerve God in all Godlineſſe and honeſty. The Eccleſiaſtical power hath the ſame end: *ἱεροσύνη δὲ βασίλεια εἰς ἓν ὁρῶσι τέλος, τῶν ὑπηκόων σωτηρίαν*, ſaid *Iſidore Peluſiot*. I ſhall not now conſider the whole effect of this truth, but in order to the preſent ſay, that ſince both temporal and ſpiritual things miniſter to the ſame end, that is, ſalvation of mankind, they are diſtinct methods

thods or inſtruments to that end, and of themſelves are not in ſubordination to one another; but as temporal things muſt ſerve ſpiritual when there is need, ſo muſt ſpiritual ſerve the temporal when they require it: The temporal power muſt defend religion, and religion muſt miniſter to the publick peace. The Prince muſt give advantages to the Miniſters of religion; and the Miniſters of religion muſt pray for the Princes armies, his proſperity, his honour, and by preachings and holy arts muſt give bridles to the ſubjects, keeping them in duty by the means of Conſcience. The Prince by laws and fear makes men juſt and temperate, chaſt and peaceable: The Prieſt does but the ſame thing by the word of his proper miniſtery. He that does it moſt effectually is the moſt happy: but he that will goe about to compare which does it moſt, and therefore is to be preferr'd, ſhall then hope to doe it proſperouſly when he can tell which ſide of the Æquinoctial hath moſt ſtarres, or whether have moſt drops of water, the Northern or the Southern ſeas. The ſumme of this conſideration is this, that although temporal things *in their latitude* are to ſerve ſpiritual ends, meaning the great end of the perfection of our Spirits: yet ſo muſt the *intermedial ſpiritual* things ſerve the ſame great end; but the *intermedial temporal* and the *intermedial ſpiritual* are not ſubordinate to one another, unleſs it be by accident, and that may and often does happen on either ſide.

17. But I muſt adde one thing more for explication; and that is, that though all things in the world are to miniſter to the great end of ſouls, and conſequently are ſubordinate to that great end; yet it is (that I may uſe S. *Pauls* expreſſion in another caſe) *by reaſon of him that hath put all things under it:* for this ſubordination is not natural, or by the nature of the thing, but by the wiſe Oeconomy and diſpoſition of God; who having appointed that all things ſhall *be ſanctified by the word of God and prayer*, that Natural powers ſhall be heightned by grace, and ſhall paſſe into ſupernatural, and this world into another, hath by his own poſitive order diſpos'd of temporal things and powers beyond their own intention. But otherwiſe, temporal things have an ultimate end of their own, terminating all their natural intention and deſign. Thus the end of the Mariners art is not the ſalvation of the ſouls of them that ſail with him, but the ſafe landing of their perſons and goods at the port: and he that makes ſtatues hath for his end a perfect image. Indeed the man may have another end, to get reputation, to maintain his family, to breed up his children *in the nurture and admonition of the Lord*, and at laſt the ſalvation of his own ſoul, by doing things honeſt and profitable: but though theſe may be the ends of the man, yet they are not the ends of his Art; and therefore his Art hath no natural ſubordination, becauſe it hath no natural order to Eternal ſalvation. And this is the caſe of many Temporal things, eſpecially Arts, offices, entercourſes and Governments. Therefore ſuppoſing all that is ſaid in the objection, that temporal felicity is not the laſt end of man, but ſpiritual and eternal, yet though it be not the end of a man, it may be the end of humane Government; and by not being in a natural order to ſpiritual ends, though ſpiritual be a better thing, yet it follows not that it ought to take place of that, upon the account of its being better in another kind. The body indeed is ſubordinate to the ſoul, becauſe it hath all its motion and operation and life from the ſoul, and in a natural conjunction and eſſential Union is it's appointed inſtrument: but Temporal things and Spiritual are not ſo conjoyned, and doe not naturally, but by accident miniſter to each other; and

therefore are made ſubject to each other alternately, when they are called to ſuch accidental or ſupernatural Miniſtrations.

Queſtion III.

Whether are to be preferr'd, Spiritual or Temporal perſons?

18. How *Spiritual things* are to be preferr'd before Temporal I have already accounted; but it is a conſideration diſtinct from that, whether *Spiritual perſons* be to be preferr'd before Temporal. For from things to perſons it will not follow: and he that hath a better art is not always the better man; and he that is imployed in the beſt concernments, hath not always the advantage of profeſſion. There was a time in *Rome* when the Phyſicians were but ſervants, and had not the liberty of *Romans*; but certainly it is a better trade then fighting: and yet then the ſouldiers were accounted the greater men. *Herod* the Sophiſter had a ſonne that was a fool and could never learn the Alphabet, but he had two and twenty ſlaves that were wiſe fellows; but the Maſter was the better man. But when the queſtion is concerning the honour and dignity of perſons, we are to remember that *honor eſt in honorante*: many men deſerve honour that have the leaſt of it, and it is as it is put upon us by others. To be honour'd is to have ſomething put to them, it is nothing of their own. Therefore in this queſtion there are two things to be ask'd: the one is, what Spiritual perſons deſerve; the other is, what is given them. They may deſerve more then they have, or they may have more then they deſerve; but whether either or neither happens, *He that honours himſelf, his honour is nothing*; but he is honourable whom God or the King honours: and therefore ſpiritual perſons ought to receive much, but to challenge none; and above all things ought not to enter into compariſon with them from whom all temporal honour is deriv'd. But when the queſtion is concerning the prelation of Secular or Eccleſiaſtic perſons, the beſt anſwer is given to it, When they ſtrive to preferre one another *in giving honour to each other*. But I remember that the legates at *Trent* were horribly put to it to place the Orators of the Kings of *France* and *Spain*, who would both goe firſt: they at laſt found an expedient, and they did both goe firſt, and both were preferr'd in ſeveral poſitions. So is the ſpiritual perſon and the civil, they are both beſt, but the honour of one is temporal, and the honour of the other is ſpiritual; or rather, one is properly called *Honour*, and the other, *Reverence*. *Honour the King, Reverence his Prieſts*. But this Queſtion is not properly a queſtion of right, but of duty: and the ſpiritual man muſt not call for it, but the other muſt pay it. And it is ſomething a ſad conſideration to think that all the Queſtions of the preference and compariſon of ſpiritual and temporal perſons doe end in covetouſneſſe and ambition, to which ſpiritual eminency, let it be never ſo great, was never intended to miniſter. For the honour due to ſpiritual perſons for their ſpiritual relation is a ſpiritual honour, and that though it be never ſo great cannot well be compar'd with temporal; for it is a great honour in another kind: but whatſoever temporal honours are given to them, are then well given when they are done in love to religion; and are then well taken when the advantage paſſes on to the good of ſouls, and does not ſully the Spiritual man with ſpiritual pride, or temporal vanity. *Socrates* complains that the Biſhops of *Alexandria* and of *Rome* were *fallen into*

Empire,

Empire, or Dominion. That's none of the preference proper to a ſpiritual man. He is then honor'd, when his perſon is had in reverend and venerable eſteem, when his counſel is ask'd, when his example is obſerv'd and followed, when he is defended by laws and Princes, when he is reſcued from beggery and contempt, when he is enabled to doe his duty with advantages, when he can verify his Eccleſiaſtical power, when he can vindicate religion from oppreſſion, and laſtly, when his perſon which is the relative of religion receives thoſe advantages which as a man he needs, and which can adorne him as ſuch a man. But if he diſputes for any other honour, ſo much is his due as is given him by Chriſtian Princes or Commonwealths, and no more; and he will gain the more by making no further queſtion. Chriſt gave his Apoſtles power abundantly, but the greateſt honour he gave them was to ſuffer for his Name; and of this he promiſed they ſhould want nothing: but when Kings became nurſing Fathers of the Church, and ſhe ſuck'd the breaſts of Queens & princely women, then the Spiritual perſons & guides of ſouls had temporal honours heap'd on them, as the offerings were made for the Tabernacle, more then was ſufficient. For it quickly roſe into exceſſe, and then the perſons of the Prelates fell into ſecular affections, and grew hated and envied and oppos'd. *Ammianus Marcellinus* giving an account of that horrible ſedition raiſed in *Rome* in the conteſt between *Damaſus* and *Urſicinus* about the Papacy, ſays he wonders not that the Prelates did ſo earneſtly contend for the Biſhoprick of *Rome, cum id adepti, futuri ſint ita ſecuri, ut ditentur oblationibus Matronarum, procedantque vehiculis inſidentes, circumſpecte veſtiti, epulas curantes profuſas, adeo ut eorum convivia Regales ſuperent menſas, Becauſe when they have obtained it, they are ſafe and warm, full with the oblations of the good women, and are carried in their caroches, and are neatly habited, and ſplendidly feaſted, and themſelves keep Tables beyond the profuſeneſſe of Kings.* Now although Biſhops are Men, and Religion it ſelf is ſerv'd by men who have bodies and ſecular apprehenſions, and therefore does need ſecular advantages; yet this belongs to them as Men, not as Spiritual. It is juſt as if you ſhould call the General of an Army *Holy Father*, and beg his bleſſing, and ſet him in the chiefeſt place of the Quire, and pray him to preach upon the greateſt Feſtivals of the year, and run in multitudes to hear him ſpeak. Theſe are the proper honours of ſpiritual perſons; and the ſplendor of the world is the appendage of ſecular atchievements: whatſoever is neceſſary for their perſons in order to the advantages of religion is very fit to be given by Princes to the Biſhops, who will certainly modeſtly entertain it, & by pious conduct transfer it to the glory of Chriſt and the good of ſouls. But this is none of the Honour that Chriſt inveſted their Holy order with: They have an honour and a bleſſedneſſe which none but themſelves can take from them. The Roſary of Chriſtian graces is the tiar of their head, and their office is their *dignity*, and humility is their *ſplendour*, and zeal is their *Conqueſt*, and patience is their *Eminence*, and they are made *illuſtrious* by bringing peace, and promoting holineſſe, and comforting the afflicted, and relieving the poor, and making men and women uſeful to the publick, and charitable in their miniſteries, and wiſe unto ſalvation. This is that which was ſpoken by God in the Prophet *Iſaiah, Since thou waſt precious in my ſight thou haſt been honourable.* And this was obſerved by the Pagan, who being ſurpris'd with the ſecular ſplendor of the *Roman* Biſhops lik'd it not, but ſaid that there was another way for them to be truly happy: *Eſſe poterant beati revera, ſi magnitudine urbis deſpectâ quam vitiis opponunt, ad* Iſai. 43. 4.

imitationem Antiſtitum quorundam provincialium viverent, quos tenuitas edendi potandique parciſſimè, vilitas etiam indumentorum, & ſupercilia humum ſpectantia, perpetuo Numini verisque ejus cultoribus ut puros commendant & verecundos. They are the words of *Ammianus Marcellinus* whom I lately mentioned. *The* Roman *Biſhops might indeed be truly happy, if they deſpiſing the ſplendors of the city would live as ſome Biſhops in the Provinces, whom their temperate and ſpare diet, their plain habit and their humble carriage repreſent to God and all God's ſervants as perſons pure and modeſt.* But then if this diſcourſe have any thing of reaſon, piety or truth in it, it muſt needs be infinitly certain that ſpiritual perſons are to be preferr'd before the temporal in ſpiritual honours, but not in temporal regards; they have nothing to doe with them by virtue of their order or their office: what they have to their Perſons by the favour of Princes and Nobles is of another conſideration, and ſo this queſtion is chang'd into an advice, and beſt ends in a Sermon or Declamation.

Queſtion IV.

Whether the Eminency of the ſpiritual calling, and the conſequent prelation of ſpiritual perſons, can exempt them from ſecular coercion, and make them ſuperior to Princes.

19. In what ſenſes Biſhops have any ſuperiority over Princes I ſhall afterwards explain: Now the queſtion is concerning ſecular ſuperiority, and immunity from the temporal ſword of Princes. Now to this, I ſuppoſe, what I have already ſaid may be able to give an anſwer. For the ſpiritual order gives no temporal power at all; and therefore if all temporal power be in the ſupreme Civil Magiſtrate, all men that can deſerve to feel the edge of the ſword are ſubject to it. For what? Had *Archimedes* reaſon to take it ill of the *Romans* for not ſending for him and making him General in the *Syracuſan* warre, becauſe he was a better Geometrician then any of all their Senate? *Lewis* the eleventh of *France* had a ſervant who was an excellent ſurgeon, and an excellent barber, and dreſs'd his gout tenderly, and had the ordering of his feet and his face, and did him many good offices. But the wiſe Prince was too fond when for theſe qualities he made him governour of his Counſels. Every good quality, and every eminence of Art, and every worthy imployment hath an end and deſigne of it's own, and that end and the proportions to it are to be the meaſure of the uſage of thoſe perſons which are appointed to miniſter to it. Now it is certain that ſpiritual perſons are appointed Miniſters of the beſt and moſt perfective end of mankind, but to ſay that this gives them a title to other Miniſteries which are appointed to other ends, hath as little in it of reaſon as it hath of revelation. But I ſhall not diſpute this over again, but ſhall ſuppoſe it ſufficient to adde thoſe authorities which muſt needs be competent in this affair, as being of Eccleſiaſtic perſons, who had no reaſon, nor were they willing, to deſpiſe their own juſt advantages, any more then to uſurp what was unjuſt.

20. When *Origen* complain'd of the faſtuouſneſſe and vanity of ſome Eccleſiaſtics in his time, they were bad enough, but had not come to a pretence of ruling over Kings upon the ſtock of Spiritual prelation: but the

was

was troubled that ſome had quit their proper excellency, conſiſting in the multitude of ſpiritual gifts, their unwearied diligence in the care of ſouls, their dangers, their patience, their humility, and their dyings for Chriſt. *Et hæc nos docet ſermo Divinus* (ſaith he) *The word of God teaches us theſe things. But we either not uderſtanding the Divine will ſet down in Scriptures, or deſpiſing what Chriſt to ſuch purpoſes recommended to us, are ſuch that we ſeem to exceed the pride even of the evil Princes of the world: and we doe not onely ſeek for guards to goe before us like Kings, but are terrible to the poor, and of difficult acceſſe, and behave our ſelves towards thoſe who addreſſe themſelves to intercede for ſome thing or ſome perſon, that we are more cruel then Tyrants, and the ſecular Lords of their ſubjects. And in ſome Churches you may ſee (eſpecially in the Churches of the greateſt cities) the chief of the Chriſtian people neither affable to others, nor ſuffering others to be free in their entercourſes with them.* Theſe things are out of the way of the Eccleſiaſtics, for theſe things cannot conſiſt with piety and humility, and the proper imployments of ſuch perſons who gain'd the world by ceſſion, and got victory over whole Kingdomes by trampling upon Devils, and being trampled upon by men. Biſhops ſhould be like the Symbols of the Bleſſed Sacrament, which although for the ornament of religion and for our ſakes and becauſe we would fain have opportunity to ſignify our love to Chriſt, we miniſter in ſilver and gold, yet the ſymbols themſelves remain the ſame plain and pure bread and wine, and altered onely by prayers, and by ſpiritual conſecration, and a relative holineſſe. But he were a ſtrange ſuperſtitious fool who, becauſe the Sacramental bread and wine are much better then all the Tables and viands of Princes and all the ſpoils of Nature, will think it fit to mingle ſugar and the choiceſt ſpices of *Arabia* with the bread, and amber-griece and powder of pearl and the ſpirit of gold with the chalice. Theſe are no fit honours to the H. Sacrament: the ſymbols of which are ſpoil'd when they are forc'd off from the ſimplicity and purity of their inſtitution and deſigne. So it is with ſpiritual perſons: their office is ſpiritual, and their relation is holy, and their honours are ſymbolical. For their own ſakes, Princes and good people muſt cauſe decent and honourable miniſteries and accommodations to be provided for them; but ſtill they muſt remain in their own humility and meekneſſe and piety, and not pretend to dignities heterogeneal, and Eminences ſecular, becauſe their ſpiritual imployment is very excellent. It was S. *Gregory Nazianzen*'s wiſh, that there were in the Church μηδὲ πρωτοθρονία μηδὲ τις πρωτιμησις καὶ τυραννικὴ πρωτομία, ἵν' ἐξ ἀρετῆς μόνης ἐγινωσκόμεθα, *Neither precedency of Epiſcopal Sees, nor any Eminency of one place above another, nor any Tyrannical or pompous proviſions and ſolennities, that we might be diſtinguiſhed onely by our vertue.* Now if prelation by order and Eccleſiaſtical Oeconomy amongſt the Biſhops was of ſo ill effect, ſo little neceſſary, and ſo greatly inconvenient that the good Biſhop wiſhed there were no ſuch thing; there is little reaſon to doubt, but he would have infinitely condemned all pretenſions of a power over civil governments. But the Biſhops of *Rome* were not at that time gone ſo far. The *Archimandrites* of *Conſtantinople*, complaining againſt the *Eutychians*, write to Pope *Agapetus*, that if they be ſtill permitted [*licenter omnia accedent, non contra Eccleſiaſticos ſolos, ſed etiam contra ipſum piiſſimum Imperatorem, noſtrum & veſtrum honorabile caput*] *They will doe inſolencies not onely to the Eccleſiaſtics, but alſo to our moſt pious Emperor, who is the honourable head both of you and us.*

Orat. poſt redit. in 5tâ Synod. Act. 1. Tom. 2. Concil.

* This power of headſhip or ſupremacy over the whole order Eccleſiaſtical

was

was acknowledged in the Church for about a thouſand years: for beſides the apparent practice and approbation of it, which I brought in the former pages, we find that the Emperour *Henry* the ſecond did deprive *Widgerus* of the Arch-Biſhoprick of *Ravenna*, and depos'd *Gregory* the ſixth from the Papacy.

Herman. in Chron.

21. And therefore we find that thoſe ancient Prelates that call'd upon Princes to pay reverence to them, and an acknowledgment of that Authority which Chriſt intruſted in their hands, accounted them wholly to be diſtinct things, and not at all invading each others limits. For Chriſt by making them Chriſtians did not make them leſſe to be Princes: and Chriſtian Emperors could not goe leſſe then the heathens; they were certainly no looſers by their baptiſme. For it had been a ſtrange argument for *Sylveſter* to have us'd to *Conſtantine*, S^r, give up your ſelf a Diſciple to the moſt Holy *Jeſus*, and you ſhall have a crown hereafter, and here alſo you ſhall ſtill reign over all but me and my Clergy; to us indeed you muſt be ſubject, and by us you muſt be governed, but the Crown Imperial ſhall be greater then every thing, our Mitres onely excepted. If this had been the ſtate of the queſtion, I wonder by what argument could the Prince have been perſwaded to become Chriſtian: when it was ſo obvious for him to ſay, that *Sylveſter* had reaſon to move him to preach Chriſt, ſince he got ſo much temporal advantage by it, but that he could ſee little reaſon why himſelf ſhould looſe and *Sylveſter* get, and become a Diſciple of Chriſt to be made a Minor and a Pupil to the Biſhop. And indeed it would have been a ſtrange Sermon that preaches humility to Emperors & dominion to Biſhops. But their ſermons when they were at the higheſt were of another nature. *De humanis rebus judicare permiſſum eſt, non præeſſe Divinis.* So P. *Gelaſius* declares the limit of the Imperial and prieſtly power: Of all things belonging to this world the Emperor is to judge; but not to be the preſident or chief Miniſter of holy rites. *Gelaſius* ſpake it upon occaſion, becauſe *Anaſtaſius* the Emperor did unneceſſarily interpoſe in the abſolution of *Peter* Biſhop of *Alexandria*. This Pope *Gelaſius* ſuppos'd was of another nature, and not relative to the things of this world, and therefore not of Imperial cogniſance. But all the things of this world belong to him. And if all things of this world, then all perſons of this world. For *circa actiones propriè verſatur Imperium*, ſay the Lawyers, Rule and Empire and all power of judicature is principally concerning actions; but actions are done by perſons, who therefore are ſubject to government. And upon this account the *African* Biſhops petition'd the Emperour that he would compel *Paul* the Biſhop of *Conſtantinople* to be of the Catholick Communion. And the Fathers of the 9 h Council of *Toledo*, making proviſions againſt thoſe Eccleſiaſtics who prevented the juſt dividend of the publick oblations, they firſt order them to be privately reproved, or elſe to be delated to the Biſhop, or to the Judge. But if the Biſhop coſen the Corban, let him be delated to the Metropolitan: but if the Metropolitan doe any ſuch vile thing, *Regis hæc auribus intimare non differant, Let him without delay be accuſed unto the King.* And *Lambert* the Emperour about the year of our Lord 900 having ſome conteſt with the Pope, propounded this firſt article in a Synod at *Ravenna*, *If any Roman of the Clergy or the Senate, of what order ſoever, ſhall either voluntarily or by compulſion appeal to the Imperial Majeſty, let no man preſume to contradict him: ——untill the Emperor by himſelf or his Miſſives ſhall deliberate concerning their perſons and their cauſes.*

tom. de Vinc. anathem.

Council. Later. conſult. 2. ſub Martino 1.

apud Baron. tom. 10. A. D. 904. n. 17.

cauſes. Thus we find Pope *Leo* the 4th ſubmitting himſelf to *Lotharius* the Emperour, and promiſing obedience: and to *Ludovicus* he profeſſes that if he have done amiſſe he will amend it according to his ſentence, or the judgement of his Deputies. Upon the conſideration of theſe and many other particulars *Gratian*, though unwillingly, confeſſes that in civil cauſes a Clergy-man is to be conven'd before the civil Judge: and although a little after he does a little prævaricate in the matter of criminal cauſes, yet it was too late; for he had ſaid it before, *Regum eſt corporalem irrogare pœnam, Kings have the power of inflicting corporal puniſhments:* and therefore if a Clerk were guilty in a criminal cauſe, the ſecular Judge had power over him, ſaid the Fathers of the firſt Council of *Matiſcon*, cap. 7. But it matters not much, for a greater then *Gratian* ſaid it in his own caſe before the civil power, *If I have done any thing worthy of death, I refuſe not to die:* they are the words of S. *Paul.*

Diſt. 10. c. de capitulis. 2. q. 7. c. Nos ſi.

11. q. 1. c. ſicut enim. §. ex his. 2. q. 2. §. item.

Queſtion V.

Whether is to be obeyed, the Prince or the Biſhop, if they happen to command contrary things?

11. To this I anſwer, that it is already determin'd that the Emperour is to be obeyed againſt the will of the Biſhop. For ſo it was in the caſe of *Mauritius* and S. *Gregory*; for the Biſhop was fain to publiſh the Princes Edict which yet he believ'd to be impious. It was alſo moſt evident in S. *Athanaſius* of *Alexandria*, S. *Gregory* of *Nazianzum*, S. *Chryſoſtom* of *Conſtantinople*, *Euſebius* of *Samoſata*, who by injuſtice were commanded to leave their Dioceſes.

13. But this is to be underſtood in actions which can by Empire and command be chang'd into good or bad reſpectively: becauſe ſuch actions are moſt properly the ſubject of humane laws. For in what God hath expreſſely commanded or forbidden, the Civil or Eccleſiaſtical power is onely concerned to ſerve the intereſt of the Divine Commandement, to promote or to hinder good and evil reſpectively. But whatſoever is left undetermined by God, that the ſupreme power can determine: and in ſuch things if there could be too ſupreme powers, the government were Monſtrous, and there could be no obedience; for *no man can ſerve two Maſters.* Now the ſupreme power hath in this no limit, but that which limits both powers, the laws of Nature and the laws of Jeſus Chriſt: and if there be any thing commanded by the Prince againſt theſe, the Biſhop is to declare the contrary, that is, to publiſh the will of God, provided it be in an evident matter and without doubtfull diſputation. And then, this being provided for, the caſe cannot be ſuppoſed that the King and the Biſhop both doing their duty can command things contrary. I doe not ſay but a temporal law may be againſt the Canons of the Church; but then we are to follow the civil law, becauſe the power is by the law of Nature ſupreme and Imperial. The matter of the Civil power and Eccleſiaſtical is ſo wholly differing, that there where either hath to doe it cannot contradict the other; but if they invade the rights of one another, then the queſtion grows hard. But the ſolution is this;

24. If the Biſhop invades the rights of the Civil power he is not at all to be obeyed, for he hath nothing to doe there. But if the Civil power invades the rights of the Biſhop, then they are either ſuch rights which are his by poſitive laws and humane conceſſion, or ſuch which by Divine appointment are his due.

25. All thoſe which are the Biſhops right by poſitive laws may by the ſame power be reſcinded by which they were granted; and therefore if a King makes a law againſt the rights of the Church, and the Biſhop proteſts againſt that law, the King and not the Biſhop muſt prevail. For *Neminem ſibi imperare poſſe, & neminem ſibi legem dicere, à qua mutatâ voluntate nequeat recedere*, ſay the Lawyers. A man may change his will as long as he lives; and the ſupreme will can never be hindred: for *ſummum ejus eſſe Imperium qui ordinario juri derogare valeat* is a rule in law, He that is the ſupreme can derogate by his power from an ordinary right, viz. by making a contrary law.

26. But if they be the rights of Biſhops and the Miniſters of Religion by Divine appointment, then the Biſhops command is to prevail, *cum conditione crucis*; that is, ſo as the ſubject muſt ſubmit to the Princes anger, and ſuffer for what he cannot doe, according to that of *S. Auſtin*, *Imperatores cum in errore ſunt, pro errore contra veritatem leges dant, per quas juſti & probantur & coronantur, non faciendo quod illi jubent, quia Deus prohibet, Miſtaken Princes make ill laws; but by them good men are tried and crown'd, by not doing what God hath forbidden them.* This is much more modeſtly expreſs'd then that reſponſory in the Roman Breviary, ſpeaking of the Apoſtles, *Iſti ſunt triumphatores & amici Dei, qui contemnentes juſſa Principum meruerunt præmia æterna, They have deſerved eternal rewards by deſpiſing the commands of Princes.* The expreſſion is hard; for though their impious laws are not to be obeyed, yet indefinitely it is not ſafe to ſay, their commands are to be deſpis'd. And none ever leſſe deſpis'd the laws then they who, becauſe they could not obey them againſt God, yet obeyed them againſt themſelves; by ſuffering death at their command, when they might not ſuffer a ſinne.

De communi Apoſt. R. 6.

27. But then this alſo ſuffers diminution. For if the Eccleſiaſtical power in ſuch things where their authority is proper and competent and Divine, give any negative or prohibitive precepts, they may and they muſt be obeyed intirely; becauſe every negative is indiviſible, and hath neither parts nor time: and in this they are but proclaimers of the Divine Commandment, which if it be negative it can never be lawful to doe againſt it. But in poſitive inſtances of commandement, though from Divine Authority, (for that's the limit of the Eccleſiaſtical power and authority) if the King commands one thing and the Biſhop another, they are ſeverally to be regarded according to the ſeveral caſes. For the rule is this, That all external actions are under the command of the Civil power in order to the publick government: and if they were not, the Civil power were not ſufficiently provided for the acquiring the end of it's inſtitution: and then it would follow that either the civil authority were not from God (expreſſely againſt S. *Paul*) or elſe all that God made were not good, as being defective from the end of it's creation (expreſſely againſt *Moſes*, and indeed againſt the honour of God.) Now becauſe external actions are alſo in order

der to religion internal, it happens that the Spiritual power hath accidentally power over them. Here then is the iſſue of this inquiry: when an external action is neceſſary to the publick ſervice, and yet in order to religion at the ſame time, the poſitive commands of the Spiritual ſuperior muſt yield to the poſitive commands of the ſupreme Civil power. For that which hath a direct power is to be preferr'd before that which hath but an indirect power. Thus it is a divine precept that we ſhould not neglect the aſſembling of our ſelves together. Upon the warranty of this, the Guides of ſouls have power to command their flocks to meet at the Divine ſervice; and they are tied to obey. But if at the ſame time the Prince hath given command that thoſe perſons or ſome of thoſe who are commanded to be at the Divine Offices, be preſent on the guards, or the defence of the city walls, they are bound to obey the Prince, and not the Prieſt at that time. * For beſides the former reaſon, when external actions are appointed by competent Authority, they are cloth'd with circumſtances with which actions commanded by God, and in which Eccleſiaſtics have competent Authority, are not inveſted: and amongſt theſe circumſtances, time and place are the principal. And therefore it follows that in external actions the command of the Prince is always to be preferred before the command of the Church; becauſe this may ſtay, and that cannot: This is not by God determin'd to time and place, but that is by the Prince; and therefore by doing that now, and letting this alone till another time, both ends can be ſerv'd: and it were a ſtrange peeviſhneſſe of Government (beſides the unreaſonableneſſe of it) to croſſe the Prince to ſhew our power, when both may ſtand, and both may be obeyed; if they did not croud at the ſame narrow dore together, there is time enough for them to goe out one after another; and by a litle more time, there will be a great deal of more room. I have heard that when King *James* the 6th of *Scotland* was wooing the *Daniſh* Lady, he commanded the Provoſt of *Edenburgh* and the Townſmen upon a certain day to feaſt the *Denmark* Embaſſadors, and to ſhew all the bravery of their Town and all the ſplendor they could: of which when the Presbytery had notice, they to croſſe the King proclaim'd a faſt to be kept in the Town upon that very day. But the Townſmen according to their duty obeyed the King: and the Presbytery might have conſider'd that it was no zeal for God that the Faſt was indicted upon that day; but God might have been as well ſerv'd by the Tueſday faſt as by the Monday. Thus if the Eccleſiaſtic power hath admitted a perſon to Eccleſiaſtical Miniſteries or Religions, if the ſupreme Civil power requires his ſervice, or if he be needed for the publick good, he may command him from thence, unleſſe there be ſomething collaterally to hinder; as if the Prince have ſworn the contrary, or that the perſon requir'd have abjur'd it by the Princes leave: but ſuppoſing him onely bound by the Eccleſiaſtical power, the ſupreme Civil power is to prevail over it, as being the lord of perſons and actions external. An inſtance of this was given by *Mauritius* the Emperour forbidding his ſouldiers to turn Monks without his leave, though the law was made ſore againſt the mind of S. *Gregory*, who was the Biſhop of *Rome*. And thus * *Caſimire* King of *Poland* was taken from his gown, and inveſted with a Royal Mantle; and divers Monks have been recalled into the imployments of armies, or publick Counſels, or publick Governments. * A. D. 1040.

28. But this alſo is to be underſtood with this proviſion. The ſupreme Civil power hath dominion over external actions, ſo as to govern them for time and place and other circumſtances. He can forbid ſermons at ſuch a time; he can forbid faſts or publick ſolennities and meetings when he pleaſe, and when it is for the intereſts of government: and concerning any accident or circumſtance and manner he can give laws, and he muſt be obeyed. But he cannot give laws prohibiting the thing it ſelf, out of hatred or in perſecution of the religion: for then the Eccleſiaſtic power is to command not onely the thing, but the circumſtances too. For the thing it ſelf, it is plain; becauſe it is a Divine Commandement, and to this the Spiritual power muſt miniſter, and no Civil power can hinder us from obeying God: and therefore the Apoſtles made no ſcruple of preaching Chriſt publickly, though they were forbidden it under great penalties. But then for the circumſtances, they alſo in this caſe fall under the Eccleſiaſtical power. If the Prince would permit the thing, he might diſpoſe of the accidents; for then he is not againſt God, and uſes his right about external actions. But if he forbids the thing, they that are to take care that God be obeyed muſt then inveſt the actions with circumſtances; for they cannot be at all, unleſſe they be in time and place; and therefore by a conſequent of their power over the thing they can diſpoſe the other, becauſe the circumſtances are not forbidden by the Prince, but the thing, which being commanded by God & not being to be done at all but in circumſtances, they that muſt take care of the Principal muſt, in that caſe, take care alſo of the acceſſory. Thus we find the Biſhops in the Primitive Church indicting of Faſts, proclaiming aſſemblies, calling Synods, gathering Synaxes: for they knew they were obliged to ſee that all that ſhould be done which was neceſſary for the ſalvation of ſouls and inſtruction of lives by preaching, and for the ſtabiliment of the Church by aſſemblies and communions. Now the doing of theſe things was neceſſary, and for the doing of theſe they were ready to die; for that paſſive obedience was all which they did owe to thoſe laws which forbad them under pain of death: for it was neceſſary thoſe things ſhould be done, it was not neceſſary they ſhould live. But when the ſupreme Civil power is Chriſtian and does not forbid the thing, there is no danger that God ſhall not be obeyed by the Prince his changing and diſpoſing the circumſtances of the thing; and therefore there can be no reaſon why the Prince ſhould be diſobeyed, commanding nothing againſt God, and governing in that where his authority is competent. Thus if the ſupreme Civil power ſhould command that the Biſhops of his Kingdome ſhould not ordain any perſons that had been ſouldiers or of mean trades to be Prieſts, nor conſecrate any Knight to be a Biſhop; though the Biſhops ſhould deſire it very paſſionately, they have no power to command or doe what the Civil power hath forbidden. But if the ſupreme ſhould ſay there ſhould be no Biſhops at all, and no ordination of Miniſters of Religion according to the laws of Jeſus Chriſt, then the queſtion is not whether the ſupreme Civil power or the Eccleſiaſtical is to be obeyed, but whether Man or God: and in that caſe if the Biſhops doe not ordain, if they doe not take care to continue a ſucceſſion in the Church of God, they are to anſwer for one of the greateſt neglects of duty of which man-kind is capable; alwaies ſuppos'd that the order of Biſhops is neceſſary to the Church, and that ordination of Prieſts by Biſhops is of Apoſtolical inſtitution, and that there is no Univocal generation of Church-Miniſters but by the ſame hands which began the διαδοχὴ ſucceſſion, and hath continued it for almoſt ſeventeen ages in the Church,

Church. Of which I am not now to interpoſe my ſentence, but to anſwer the caſe of Conſcience relying upon the ſuppoſition. This onely I am to adde, that ſuppoſing this to be neceſſary, yet it is to be done *cum conditione crucis*, with ſubmiſſion to the anger of the laws if they have put on unjuſt armour; and to be done with peaceableneſſe, and all the arts of humility and gentleneſſe, petition and wiſe remonſtrances.

* But there is yet one reſerve of caution to be us'd in this caſe. If the Civil power and the Spiritual differ in this particular, the ſpiritual muſt yield ſo long, and forbear to doe what is forbidden by their lawfull ſupreme, untill it be certain that to forbear longer is to neglect their duty, and to diſpleaſe God. If the duty or if the ſucceſſion can be any way ſupplied, ſo that the intereſt of religion be not deſtroyed, then ceſſion or forbearance is their duty. And therefore if the King of *Portugal* ſhould forbid conſecrations of Biſhops in his Kingdome not for a time, but for ever, the Biſhops were bound to obey, if they could be ſupplied from other Churches, or if it were not neceſſary that God ſhould have a Church in *Portugal*, or if without Biſhops there could be a Church. But if they be ſure that the Biſhops are the head of Eccleſiaſtical *Union*, and therefore the conſervators of *Being*; and if the remaining Prelates are convinc'd that God hath requir'd it of them to continue a Church in *Portugal* (as it is certain that by many regards they are determined there to ſerve Gods Church, and to provide for ſouls and for the religion of their charges) and if they could be no otherwiſe ſupplied with Eccleſiaſtical perſons of the order and ordination Apoſtolical, as if other Churches would not ordain Biſhops or Prieſts for them but upon ſinful conditions, and violation of their Conſciences: then the Spiritual power is to doe their duty, and the ſupreme Civil power is to doe their pleaſure; and the worſt that can come is the crown of Martyrdome, which whoſoever gets will be no looſer. And therefore I cannot without indignation conſider it, that the Pope of *Rome*, who pretends to be a great Father of Chriſtians, ſhould not onely neglect but refuſe to make ordinations and conſecrations in that Church; which if their Prince ſhould doe, the Biſhops ought to ſupply it by their care; and therefore when the Prince deſires it, as it is infinite diſhonour to the Biſhop of *Rome* to neglect or refuſe, in compliance with the temporal intereſt of the King of *Spain*, ſo it is the duty of the Biſhops of *Portugal* to obey their Prince. But I have nothing to doe to meddle with any mans intereſt, much leſſe that of Princes: onely the ſcene of this caſe of Conſcience happens now to lie in *Portugal*, and the conſideration of it was uſefull in the determination of this preſent queſtion.

39. But this Queſtion hath an appendent branch which is alſo fit to be conſider'd. What if the Civil laws and the Eccleſiaſtical be contrary? as it happens in divers particulars; as if the Prince be a heretick, an *Arrian* or *Macedonian*, and happens to forbid the invocation of the Holy Ghoſt, or giving Divine honours to the Son of God, and the Church hath alwayes done it, and always commanded it. What is to be done in this caſe? This inſtance makes the anſwer eaſy: for in matters of Faith it is certain the Authority and laws of God have made the determination; and therefore in theſe and the like the Church is bound to doe and to believe and to profeſſe according to the commandement of God. But how if the Prince does not forbid the internal duty (for in that his authority is incompetent) but commands onely that there ſhould be no prayers to the Holy Ghoſt

put into the publick Liturgies of the Church; to this the anſwer is certain, That though in all externals the ſupreme Civil power is to be obeyed, yet the ſpiritual power in ſuch caſes is tied to confeſſe the faith which the Prince would diſcountenance, and to take care that their charges ſhould plentifully ſupply in all their private devotions what is not permitted to them in publick. And the reaſon of this is not that they are tied to doe any thing in oppoſition or ſcandal to the Prince; but that they are in duty and charity to provide leſt the publick diſcouragement and alteration of the circumſtance of the duty, doe not leſſen the duty internal and eſſential: and therefore they are to put ſo much more to the private, that they may prevent the diminution which is likely to come upon the private duty from the publick prohibition.

30. But there are ſome Civil laws which are oppos'd to Eccleſiaſtical, not by contrariety of ſanction and command *hinc inde*, but by contrariety of declaration or permiſſion reſpectively. Thus if the Eccleſiaſtical laws have forbidden marriage in a certain Degree, and the Civil power hath permitted it, then the ſubject may more ſafely obey the power Eccleſiaſtical; becauſe by ſo doing he avoids the offending of religious perſons, and yet diſobeys no command of the Prince; for no Civil power uſually commands a man to marry in a certain Degree: and therefore when he is at liberty from the Civil law, which in this caſe gives him no command, and he is not at liberty from the Eccleſiaſtical law, which hath made a prohibition, he muſt obey the Church; which if it had no power over him, could have made no law, and if it have a power, it muſt be obeyed; for in the preſent caſe there is nothing to hinder it. So it is in ſuch things which are permitted for the hardneſſe of mens hearts or the publick neceſſity. The permiſſion of the Prince is no abſolution from the authority of the Church. Suppoſing Uſury to be unlawfull, as it is certain many kinds and inſtances of it are highly criminal, yet the Civil laws permit it, and the Church forbids it. In this caſe the Canons are to be preferr'd. For though it be permitted, yet by the laws no man is compell'd to be an Uſurer; and therefore he muſt pay that reverence and obedience which is otherwiſe due to them that have the rule over them in the conduct of their ſouls.

31. The caſe is alike in thoſe laws where the Civil power onely gives impunity, but no warranty. As in ſuch caſes when laws indulge to a mans weakneſſe and grief; as when it permits him to kill any man that creeps in at his windows, or demands his purſe of him on the high way, or to kill his adulterous wife if he ſurpriſes her in the ſin: If the Civil power promiſes impunity, and does not intend to change the action from unlawfull to lawfull, as in ſome caſes it does, in ſome it cannot; then if there be any laws of the Church to the contrary, they paſſe an obligation upon the conſcience, notwithſtanding the Civil impunity. And there is great reaſon for this. For ſince the affairs of the world have in them varieties and perplexities beſides, it happens that in ſome caſes men know not how to govern by the ſtricteſt meaſures of religion, becauſe all men will not doe their duty upon that account; and therefore laws are not made [*ut in Platonis republica*, but as *in face Romuli*] with exact and pureſt meaſures, but in compliance and by neceſſity, not always as well as they ſhould, but as well as they may: and therefore the Civil power is forc'd ſometimes to connive at what it does not approve. But yet theſe perſons are to be gover-

ned

ned by conſcience; and therefore it is neceſſary that that part of the publick Government which is to conduct our conſciences more immediately ſhould give a bridle to that liberty which, by being in ſome regards neceſſary, would if totally permitted become intolerable. And therefore the ſpiritual power puts a little myrrhe into their wine, and ſupplies that defect which in the intrigues of humane affaires we bring upon our ſelves by making unnatural neceſſities.

32. But then if it be inquir'd, whether it be lawfull for the ſpiritual power by ſpiritual Cenſures to puniſh thoſe actions which the Civil power permits; I anſwer, that the Church makes laws either by her declarative and direct power, or by a reductive and indirect power: that is, ſhe makes laws in matters expreſſely commanded by God or forbidden, or elſe in ſuch things which have proportion, ſimilitudes and analogies to the Divine laws. In the firſt ſhe is the declarer of Gods will, and hath a direct power. In the ſecond ſhe hath a judgement of diſcretion, and is the beſt Judge of *Fit* and *Decent*. If the Church declares an act to be againſt Gods commandement, or bound upon us by eſſential duty, in that caſe, unleſſe there be error evident and notorious, ſhe is intirely to be obeyed: and therefore the refractary and the diſobedient ſhe may eaſily coerce and puniſh by her cenſures, according as ſhe ſees it agreeable and conducing to Gods glory and the good of ſouls, although the Civil power permits the fact for neceſſity or great advantages. And the reaſon is, becauſe as the Civil power ſerves the ends of the republick by impunity and permiſſion, ſo there is another end to be ſerv'd which is more conſiderable, that is, the ſervice of God and the intereſt of ſouls, to which ſhe is to miniſter by laws and puniſhments, by exhortations and the argument of rewards: and as every power of Gods appointment is ſufficient for it's own end, ſo it muſt doe it's own portion of duty for which ſo competent proviſions are made. And therefore the Spiritual power may in this caſe puniſh what the Civil power puniſhes not. * With this onely Caution, if the Civil power does not forbid the Church to uſe her Cenſures in ſuch a particular caſe: for if it does, it is to be preſumed that ſuch Eccleſiaſtical coercion would hinder the Civil power from acquiring the end of it's laws, which the Eccleſiaſtical never ought to doe; becauſe although her cenſures are very uſefull to the ends of the ſpiritual power, yet they are not abſolutely neceſſary, God having by ſo many other ways provided for ſouls, that the Church is ſufficiently inſtructed with means of ſaving ſouls though ſhe never draw her ſword. But the Civil power hath not ſo many advantages.

33. But if the lawes of Church are made onely by her Reductive and indirect power, that is, if they be ſuch that her authority is not founded upon the expreſſe law of God, but upon the judgment of diſcretion, and therefore her laws are concerning decencies and uſefulneſſes and pious advantages, in this caſe the Church is not eaſily to proceed to Cenſures, unleſſe it be certain that there is no diſſervice nor diſpleaſure done to the Civil power. For it will look too like peeviſhneſſe to croſſe the Civil laws, where it is apparent there is no neceſſity, and no warranty from a Divine commandement. The Church would not have her laws oppos'd or diſcountenanc'd upon little regards; and therefore neither muſt ſhe without great neceſſity doe that which will cauſe ſome diminution to the Civil laws, at leaſt by interpretation.

34. And after all this, if it happens that the Civil power and the Eccleſiaſtical command things contrary, there is a fault ſomewhere, and there is nothing to be done but to inquire on which ſide God is; for if he be not on the Churches ſide by a direct law in the matter, he is not on the Churches ſide for her relation, but on the Kings ſide for his authority.

From the matter of the former Queſtion ariſes another like it.

Queſtion VI.

Whether in the Civil affaires and cauſes of the Eccleſiaſtical power and perſons the preſumption ought to lie for the King, or for the Church.

35. This Queſtion muſt ſuppoſe the caſe to be dubious, and the matter equal on both ſides as to the ſubject matter; for elſe there needs to be no queſtion, but judgment muſt be according to the merit of the cauſe: and it muſt ſuppoſe alſo that neither of them will yield, but uſe their own right; for if either did, themſelves would make an end of the queſtion: but when both are in pretence, and the pretence is equal in the matter and the argument, and that the cauſe is to be determined by favour and privilege, whether is to be preferr'd? I doe not ask which is to be preferr'd in law; for in that queſtion, the laws and cuſtomes of a people are the rule of determination: but whether there be in conſcience any advantage of preſumption due to either.

36. To this I anſwer, that in the moſt pious ages of the Church the preſumption was ever eſteemed to lie for the Church when the Princes were Chriſtians: and when the queſtion is of piety not of authority, of charity not of Empire, it is therefore fit to be given to the Church, 1. Becauſe if the Civil power takes it to it ſelf, it is a Judge and a party too. 2. Becauſe whatever external rights the Church hath, ſhe hath them by the donation, or at leaſt enjoyes them by the conceſſion of the ſupreme Civil power, who in this caſe by ceſſion doe confirm at leaſt, and at moſt but enlarge their donative. 3. Becauſe the ſpiritual power is under the Kings protection, and hath an equal caſe with that of widows and orphans. It is a pious cauſe, it is the cauſe of the poor and the unarmed. 4. The King is better able to bear the loſſe, and therefore it is a caſe of equity. 5. The Church is a relative of God and the Miniſter of Religion, and therefore the advantage being given to the Church, the honour is done to God; and then on the Kings ſide it would be an act of religion and devotion. 6. If the Civil power being judge prefers the Eccleſiaſtics in the preſumption, it is certain there is no wrong done, and none hath cauſe to complain: but if it be againſt the Eccleſiaſtics the caſe is not ſo evident, and juſtice is not ſo ſecur'd, and charity not at all done.

37. And if it be thought that this determination is fit to be given by a Church-man; though it be no objection while it is true and reaſonable, yet I endeavour'd to ſpeak exactly to truth, and for the advantage of the Civil power, though the queſtion is decided for the Eccleſiaſtics. For in ſuch caſes, as the Eccleſiaſtics will have advantage if they in dubious caſes never will

wil contend, ſo the Civil power will ever have the better of it if in theſe caſes they reſolve never to prevail.

38. Although theſe inquiries have carried me a little further then the firſt intention of the Rule, yet they were greatly Relative to it. But I ſhall recal my Reader to the ſenſe and duty of it by the words of *S. Gregory*, who ſayes that *Chriſtus Imperatori & omnia tribuit, & dominari eum non ſolùm militibus, ſed etiam Sacerdotibus conceſſit, Chriſt hath both given all things to the Emperour, but a power of dominion not onely over the ſouldiers, but even over the Prieſts themſelves.* And that great wiſe diſpoſer of all things in Heaven and Earth, who makes twins in the little continent of their Mothers Wombe to lie at eaſe and peace, and the Eccentric motions of the Orbes, and the regular and irregular progreſſions of the ſtarres, not to croſſe or hinder one another, and in all the variety of humane actions, caſes and contingencies, hath ſo wiſely diſpos'd his laws that no contradiction of chance can infer a contradiction of duty, and it can never be neceſſary to ſin, but on one hand or other it may for ever be avoided; cannot be ſuppoſed to have appointed two powers in the hands of his ſervants to fight againſt or to reſiſt each other: but as good is never contrary to good, nor truth to truth, ſo neither can thoſe powers which are ordain'd for good. And therefore where the powers are diſtinct they are imployed upon ſeveral matters; and where they converſe about the ſame matter, as in external actions and perſons they doe, there one is ſubject to the other, and therefore can never be againſt it.

Epiſt. 64. ad Theodorum medicum.

RULE VII.

The ſupreme Civil power hath juriſdiction in cauſes not onely Eccleſiaſtical, but internal and ſpiritual.

1. Βασιλεὺς τ πρὸς τὸν Θεὸν Κύριον ſaid *Ariſtotle, Of things belonging to God the King is the Governour.* Therefore beſides that the ſupreme Civil power is to govern all perſons and all actions and miniſteries which are directly external, it is to be conſidered that actions internal, as they can be made publick, have alſo influence upon the perſons and lives, the fortunes and communities of Men; and therefore either are ſo far forth to be governed by them who are governours of men in their lives and fortunes, in their ſocieties and perſons, that they may doe good to them, or at leaſt doe no hurt.

Polit. l. 3.

2. Therefore as the ſupreme Princes and Magiſtrates have in ſeveral ages of the Church indulg'd to Eccleſiaſtics a power of Civil government, privileges and defenſatives *in ordine ad ſpiritualia*, that is, to enable them with the help of the Civil power to advance the intereſts of religion and the ſpiritual men, which by evil men is apt to be deſpis'd, as all the threatnings of the Goſpell and the terrors of death and the horrible affrightments of the day of Judgement are: ſo God hath given to the ſupreme Civil power authority over all publick religion *in ordine ad bonum temporale*. Princes and States did the other, but God did this. That was well,

very well; but this is neceſſary, and that was not. The reaſon of both is this, Becauſe no external accident can hinder the intentions of God in the effects of religion and the event of ſouls. Religion thrives as well in a ſtorm and in perſecution as in ſun-ſhine. God had more ſummer friends under *Conſtantine*, but poſſibly as many true ones under *Diocletian*; or if he had not, it was mens fault, their weakneſſe, not their neceſſity. But the Civil intereſt can be really hindered by the intervening of new doctrines and falſe manners of worſhip: and the common-wealth if it be deſtroyed hath no recompence in eternity: and therefore God hath not call'd them happy when they are troubled, and hath not bidden them to ſuffer rebellion, or to rejoice when men *ſpeak evil of dignities*, and he hath not told them that *great is their reward in heaven*; but the whole purpoſe and proper end of the government being for temporal felicity, though that temporal felicity is by the wiſdome of God made to miniſter to the eternal, the government expires in this world, & ſhall never return to look for recompence for it's ſufferings. But every ſingle Man ſhall; and though temporal power can be taken from Princes, yet a mans religion cannot be taken from him: and therefore God hath given to Princes a ſupreme power for the ordering of religion in order to the common-wealth, without which it had not had ſufficient power to preſerve it ſelf; but he hath not given to Eccleſiaſtics a power over Princes in matter of government in order to ſpiritual things, 1. becauſe though ſpiritual things may receive advantage by ſuch powers if they had them, yet they may doe as much harm as good, and have done ſo very often, and may doe ſo again. 2. Becauſe God hath appointed to ſpiritual perſons ſpiritual inſtruments ſufficient to the end of that appointment. 3. Becauſe he hath alſo eſtabliſhed another Oeconomy for religion, the way of the croſſe, and the beaten way of humility, and the defenſatives of mortification, and the guards of ſelf-denial, and the proviſions of contentedneſſe, and the whole ſpiritual armour, and prayers and teares, and promiſes, and his holy ſpirit, and theſe are infinitely ſufficient to doe Gods work, and they are infinitely the better way. 4. Becauſe religion being a ſpiritual thing can ſtand alone, as the ſoul can by it ſelf ſubſiſt: and ſecular violence can no more deſtroy faith, or the ſpiritual and true worſhip of God, then a ſword can kill the underſtanding. 5. Becauſe if God had given a temporal power to Eccleſiaſtics in order to a ſpiritual end, then he had ſet up two ſupremes in the ſame affairs, which could never agree but by the ceſſion of one; that is, the two ſupremes could never agree but by making one of them not to be ſupreme.

3. And the world hath ſeen this laſt particular verified by many ſad experiments. For when the *Roman* Emperours reſiding in the Eaſt gave great powers and truſts to the Patriarchs of the Weſt, by their Spiritual ſword they began to hew at the head of gold, and lop off many Royalties from the Imperial ſtock. And *Leo Iconomachus* for breaking down the images of Saints felt their power, for they ſuffered not the people to pay him tribute in *Italy*, threatning to interdict them the uſe of Sacraments and publick devotions if they did. But as ſoon as ever they began by ſpiritual power to intermeddle in ſecular affairs, they quickly pulled the Weſtern Empire from the Eaſt, and in a convenient time leſſened and weakned that of the Weſt. For Pope *John* the third combin'd with *Berengarius* and *Adalbar* his ſon againſt the Emperor *Otho* the great, and they muſt pretend themſelves to be Kings of *Italy*. Pope *John* the 18th made

a

a league with *Creſcentius*, and ſtirred up the people againſt *Otho* the third. Pope *Benedict* the ninth excited *Peter* of *Hungary* to pretend to the Empire, onely to hinder *Henry* ſurnamed *Niger* from entring into *Italy* to repeat his rights. And all the world knows what *Gregory* the 7th did to *Henry* the fourth; how he firſt cauſed *Rodulph* of *Suevia*, and afterwards *Ecbert* of *Saxony* to fight againſt him: and here their great quarrel was about the power of chuſing the Pope. Then they fell out about the collation of Biſhoprics; for which cauſe Pope *Gelaſius* the XIIth caus'd the Arch-Biſhop of *Mentz* to rebel againſt *Henry* the 5th; and there the Pope got the better of him, and by the aid of his *Norman* forces which he had in *Sicily* beat him into compliance. Then they fell out about ſome fees of the Empire; and *Innocent* the ſecond raiſed up *Roger* the *Norman* againſt *Lotharius* the XII. about the Dutchy of *Poüille*: and S. *Bernard* being made Umpire in the Quarrel, the Pope got a ſhare in *Bavaria*, for whoever loſt, *ſignior Papa*, like the butlers box, was ſure to get, by the advantage of his ſupreme conduct of religion which by this time he got into his hands.

4. And now he improv'd it providently. For the ſame *Innocent* ſtirred up *Guelphus* Duke of *Bavaria* againſt *Conrade* the third; and thence ſprang that diſmal and bloudy faction between the *Guelphs* and *Ghibellins*. But what ſhould I reckon more? I muſt tranſcribe the Annals of *Germany* to enumerate the hoſtilities of the *Roman* Biſhops againſt the Emperors their lords, when they got the conduct and Civil government of religious affairs into their power. *Frederic Barbaroſſa*, *Henry* the ſixth, his brother *Philip*, *Frederic* the ſecond, *Henry* the ſeventh, *Frederic* of *Auſtria*, *Lewis* of *Bavaria*, *Sigismond*, *Frederic* the third, felt the power of a temporal ſword in a religious ſcabbard: and this was ſo certain, ſo conſtant a miſchief, that when the Pope had excommunicated eight Emperors, and made the temporal ſword cut off them whom the ſpiritual ſword had ſtruck at, the Emperors grew afraid. And *Radulph* of *Haſpurg* when he was choſen Emperor durſt not goe into *Italy*, which he called the Lions denne, becauſe the entrance was fair, but few returning footſteps were eſpied. And it grew to be a proverb, ſaith *Guicciardine*, *Proprium eſt Eccleſiæ odiſſe Cæſares*, *The Church hates Cæſar*; and the event was that which *Carion* complained of, *Sceleribus Pontificum hoc Imperium languefactum eſt*, *By the wickedneſſe of the Biſhops of* Rome *the* Roman *Empire is fallen into decay*.

Vide Luitpran. lib 6. c. 6. Cuſpinian. & Theodoric. à Niem in vita Othon. 3.

lib. 4. Chron.

5. Theſe inſtances are more then enough to prove that if Religion be governed by any hand with which the Civil power hath nothing to doe, it may come to paſſe that the Civil power ſhall have no hands at all, or they ſhall be in bands. The conſequence of theſe is this, That if the ſupreme Civil power be ſufficient to preſerve it ſelf, it can provide againſt the evil uſe of the ſpiritual ſword, and conſequently can conduct all religion that can by evil men be abus'd, ſo as to keep it harmleſſe. If by excommunications the Biſhop can diſturb the Civil intereſt, the Civil power can hold his hands that he ſhall not ſtrike with it, or if he does, can take out the temporal ſting, that it ſhall not venome and feſter. If by ſtrange doctrines the Eccleſiaſtics can aliene the hearts of ſubjects from their duty, the Civil power can forbid thoſe doctrines to be preach'd. If the Canons of the Church be ſeditious or peeviſh or apt for trouble, the Civil power can command them to be reſcinded, or may refuſe to verify them, and make them into laws. But that we may not truſt our own reaſon

reaſon onely, I ſhall inſtance in the particulars of jurisdiction, and give evident probation of them from the authority of the beſt ages of the Church.

6. And firſt in general, that Kings or the ſupreme Civil power is by God made an Overſeer, a Ruler, a carefull Father, a Governour, a Protector and Provider for his Church, is evident in the Scriptures, and the doctrine of the Primitive ages of the Church. *Nutritii & patres Eccleſiæ* is their appellative which we are taught from Scripture, Nurſing Fathers of the Church. *Paſtores*, that's the word God us'd of *Cyrus* the *Perſian*, *Cyrus my ſhepherd:* and when the Spirit of God by *David* calls to Kings and Princes of the earth to *kiſſe the Son leſt he be angry*, it intends that as Kings they ſhould uſe their power and Empire in thoſe things in which the Son will be worſhipp'd by the children of men. For beſides the natural and firſt end of government, which is temporal felicity, of which I have already ſpoken, there is alſo a ſupernatural, the eternal felicity of ſouls; and to this Civil government does miniſter by the Oeconomy and deſigne of God: and therefore it was well ſaid of *Ammianus*, *Nihil aliud eſt Imperium (ut ſapientes definiunt) niſi cura ſalutis alienæ.* It is true in both ſenſes; *Empire is nothing elſe (as wiſe men define it) but a power of doing good by taking care for the ſalvation of others.* To doe them good here, and to cauſe them to doe themſelves good hereafter, is the end of all government. And the reaſon of it is well expreſſed by the Emperor *Theodoſius Junior* to S. *Cyril*, *Quandoquidem ut vera religio juſtâ actione perficitur, ita & Reſpublica utriuſque ope mixta floreſcit*, As true religion is perfected by juſtice, ſo by religion and juſtice the republick does flouriſh; and therefore he addes, *Deus opt. Max. pietatis & juſtæ actionis quoddam quaſi vinculum nos eſſe voluerit*, The Emperor is by the Divine appointment the common band of juſtice and religion.

lib. 39.

apud Cyril. ep. 17.

7. In purſuance of this truth, *Euſebius* tels that *Conſtantine* the Great was wont to ſay to the Biſhops concerning himſelf, *Vos intra Eccleſiam, ego extra Eccleſiam à Deo Epiſcopus conſtitutus ſum*, You within the Church walls and I without, but both of us are appointed by God to be *Biſhops* or *Overſeers* of his Saints and ſervants. And in the edict of *Valentinian* and *Martian*, which approves the acts of the Council of *Chalcedon*, they are both called *Inclyti Pontifices, illuſtrious Biſhops:* and the Emperor *Leo* 3. in his Epiſtle to *Gregory* the Biſhop of *Rome* ſayes of himſelf ὅτι βασιλεὺς καὶ ἱερεύς εἰμι, *I am both a King and a prieſt*; meaning in office, not in order, in government, not in miniſteries. Theſe and ſuch like words are often us'd in the Letters enterchang'd between the Princes and the Biſhops in the Ancient Church, of which that of *Leo* the *Roman* Biſhop concerning the *French* Capitulars is remarkable, writing to *Lotharius*. *De capitulis vel præceptis Imperialibus veſtris veſtrorum Pontificum prædeceſſorum irrefragabiliter cuſtodiendis & conſervandis, quantum valuimus & valemus in Chriſto propitio, & nunc & in ævum nos conſervaturos modis omnibus profitemur.* It was a direct *Oath of ſupremacy. Concerning the Capitulars or Imperial precepts given by you and your predeceſſors who were Biſhops*, (viz. in their power and care over Churches) *we through the aſſiſtance of Chriſt promiſe as much as we are able to keep and to conſerve them for ever.* The limit of which power is well explicated by S. *Auſtin* in theſe words, *Quando Imperatores veritatem tenent, pro ipſa veritate contra errorem jubent; quod quiſquis contempſerit*

de vita Conſtant. lib. 4. c. 24.

Epiſt. 166.

tempſerit, ipſe ſibi judicium acquirit, When the Emperors are Chriſtians and right believers, they make laws for the truth and againſt falſe doctrines; which laws whoſoever ſhall deſpiſe, gets damnation to himſelf.

8. For if we conſider that famous ſaying of *Optatus*, that *Eccleſia eſt in republica, non respublica in Eccleſia, The Church is in the common-wealth, not the common-wealth in the Church*, and the Church is not a diſtinct ſtate and order of men, but the common-wealth turn'd Chriſtian, that is better inſtructed, more holy, greater lovers of God, and taught in the knowledge of our Lord Jeſus; it is not to be imagin'd, that the Emperors or ſupreme governours ſhould have the leſſe care and rule over it by how much the more it belongs to God. This fancy firſt invaded the ſervants when they turn'd Chriſtians; they thought their Maſters had then leſſe to doe with them. The Apoſtle tels them as in the caſe of *Oneſimus*, that it is true, they ought to love them better, but the other were not the leſſe to be obedient; onely there was this gotten by it, that the ſervants were to doe the ſame ſervice for the Lords ſake, which before they did for the laws. But it is a ſtrange folly to imagine that becauſe a man hath chang'd his opinion he hath therefore chang'd his relation; and if it were ſo, he that is weary of his Maſter, may ſoon change his ſervice by going to another Tutor. Religion eſtabliſhes all natural and political relations, and changes none but the ſpiritual; and the ſame Prince that governs his people in the time of the plague is to govern them when they are cur'd; and the Phyſician that cur'd them hath got no dominion over them, onely *in regimine ſalutis* he is principal, he is to govern their health. The caſes as to this are parallel between the ſoul and the body. And therefore the Emperor *Conſtans* declar'd his power and his duty too, *de omnibus curam agere & intendere quæ reſpiciunt ad utilitatem Chriſtianiſſimæ noſtræ reipublicæ, to take care and to intend all things which regard the advantage of our moſt Chriſtian common-wealth:* and *Aimonius* tels of King *Clodovæus*, that in one of the Councils of *Africa* held at *Clupea* he deſcribed his office and duty by theſe two ſummaries, *publicis rebus conſultores advocare, & ea quæ Dei & ſanctorum ejus ſunt diſponere; to conſult about publick affaires of the common-wealth, and to diſpoſe of thoſe things which belong to God and to his ſaints.*

In Concil. Roman. ſub Martino I.

lib. 4. cap. 41.

9. But the conſideration of the particulars will be more uſeful in this inquiry, and firſt

The ſupreme Civil power hath authority to convene and to diſſolve all ſynods Eccleſiaſtical.

10. This appears 1. in that all the firſt Councils of the Church after the Emperors were Chriſtian were convocated by their Authority. The Council of *Nice* was called by *Conſtantine*, as is affirmed by [a] *Euſebius*, [b] *Ruffinus*, [c] *Sozomen* and [d] *Theodoret:* and when the *Euſebians* had perſuaded *Conſtantine* to call a council at *Tyre* againſt *Athanaſius*, the Prince underſtanding their craft and violence call'd them from *Tyre* to *Conſtantinople* * : and by the ſame Emperour there was another Council called at *Arles*. The Council at *Sardica* in *Illyria* was conven'd by the authority of the Emperours *Conſtans* and *Conſtantius*, as the Fathers of that Synod themſelves wrote in their letters to the *Egyptians* and *Africans:* and *Liberius* the Biſhop of *Rome*

[a] de vita Conſtant. l. 7. c. 6.
[b] lib. 1. hiſt. c. 1.
[c] lib. 1. c. 16.
[d] lib. 2. hiſt. c. 5.
* apud Athanaſ. apol. 2.

apud Athanaſ. ibid.

Theodor. lib. 2. c. 16. in dial. & Liberius in Epiſt. ad Hoſium Cordub. apud Baron. Tom. 3. A.D. 353. n. 19.

* Synod. conſtit. libell.

Rome with many other Biſhops of *Italy* joyn'd in petition to *Conſtantius* to convocate a Council at *Aquileia*; not to ſuffer them to doe it, but that he would, for to him they knew it onely did belong. *Theodoſius* the Emperor called the ſecond general Council at *Conſtantinople*; as *Socrates*, *Sozomen* and *Nicephorus* relate: and the Fathers of the Council * write in their Synodical conſtitutions, with this expreſſion added, *ea quæ acta ſunt in ſancto Concilio ad Tuam referimus Pietatem, whatſoever was done in that Synod was* wholly *referr'd* and ſubmitted *to the Princes piety*. The great *Epheſin* Council, which was the third Oecumenical, was conven'd by *Theodoſius Junior, ex proprio munere & officio, & ex animi ſui deliberatione*, ſo himſelf affirms, *out of his own free choice, according to his office and his duty*. But his reſcript by which he conven'd the Council is a moſt admirable letter, and contains in it a full teſtimony of the truth of this whole Rule, and does excellently enumerate and imply all the parts of the Imperial jurisdiction in cauſes of religion. The ſumme of which are in the preface of that reſcript in theſe words, *Our common-wealth depends upon piety* [*or religion*] *towards God, and between them both there is great cognation and ſociety; for they agree together, and grow by the increaſe of one another: ſo that true religion does ſhine by the ſtudy of juſtice, and the common-wealth is aſſiſted by them both. We therefore being plac'd in the Kingdome by God, having receiv'd from him the care both of the Religion and the proſperity of the ſubject, we have hitherto endeavour'd by our care and by our forces to keep in perpetual union: and for the ſafety of the republic we are intent to the profit of our ſubjects, and diligently watch for the conſervation of true religion; but eſpecially we ſtrive that they may live holily, as becomes holy perſons, taking care, as it befits us, even of both (for it is impoßible we ſhould take good care of one if we neglect the other.) But above the reſt, we are carefull that the Eccleſiaſtical ſtate may remain firm, ſo as is fit to relate to God, and to be in our time, and may have tranquillity by the conſent of all men, and may be quiet by the peace of the Eccleſiaſtic affaires; and that true religion may be kept unreprovable, and the lives of the inferior Clergy and the Biſhops may be free from blame. This is the ſumme of his duty, and the limit of his power, and the intention of his Government.* And to theſe purpoſes he call'd a Council, threatning puniſhment to any Prelate who was called if he neglected to come. If the Emperour took more upon him then belong'd to him, he was near a good Tutour that could well have reprov'd him, the Fathers of the *Epheſin* Council; but if he took upon him but what was juſt, this teſtimony alone is ſufficient in this whole queſtion. But he ended not ſo, but ſhortly after called another Council in the ſame place, againſt the will of Pope *Leo*, who yet was forc'd to ſend his Deputies to be aſſiſtant at it. But that Council had an ill end: and to repair the wounds made to truth by it, Pope *Leo* petition'd the Emperor for another to be held in *Italy*. But the Emperor was then not much in love with Councils, having been ſo lately deceived by one; and therefore put it off, and died: and his ſucceſſor *Martianus* called one at *Nice*, but changing his mind had it kept in *Chalcedon*. I ſhall proceed no further in particular, but account it ſufficient what Cardinal *Cuſanus* acknowledges. *Sciendum eſt quod in univerſalibus octo Conciliis ſemper invenio Imperatores & Judices ſuos cum ſenatu primatum habuiſſe*. For this is more then the mere power of calling them; for that he might doe upon many accounts: but the Emperors and his Judges and Council always had the primacy in the eight general Councils.

apud Cyril. Ep. 4.

Epiſt. 17. apud Cyrillum.

In Concil. Chalced. act. 1. ſcribens ad Dioſcorum Alex. Leo Epiſt. 21. Tom. 1. Epiſt. RR. PP.

de Concord. l. 3. c. 16.

As

11. As the Emperors did convene, ſo they did diſmiſſe the Eccleſiaſtical conventions; as appears in the acts of the *Epheſin* Council, where the Fathers petition the Emperor, that he would free them from that place, and give them leave to wait upon him to ſee his face, or at leaſt he would diſmiſſe them and ſend them home to their own Churches. The ſame petition was made by the Biſhops at *Ariminum* to the Emperor *Conſtantius*, and by the Fathers at the Council of *Chalcedon* * to *Martianus*. But theſe things did never pleaſe the *Italians* after their Patriarch began to ſet up for Eccleſiaſtical Monarchy, and they, as ſoon as they could, and even before their juſt opportunities, would be endeavouring to leſſen the Imperial power and to take it into their own hands. But this is one of the things that grew to an intolerable miſchief; and was not onely againſt the practice of the beſt ages, and againſt the juſt rights of Emperors, but againſt the doctrine of the Church.

Vide etiam Baron. Tom. 5. A. D. 441. n. 103. Theod. l. 2. c. 19, 20. * fine 6ta act.

12. For S. *Hierom* reproving *Ruffinus*, who had quoted the authority of ſome Synod, I know not where, S. *Hierome* confutes him, by this argument, *Quis Imperator juſſerit hanc Synodum congregari?* There was no ſuch Synod, for you cannot tell by what Emperors command it was conven'd. To this purpoſe there was an excellent Epiſtle written by certain Biſhops of *Iſtria* to *Mauritius* the Emperour, enumerating from the records of the Church the convention of Eccleſiaſtical Councils to have been wholly by the Emperors diſpoſition; in which alſo they dogmatically affirm, *Semper Deus præſentiâ Chriſtianorum Principum contentiones Eccleſiaſticas ſedare dignatur, God does always vouchſafe to appeaſe Church-quarrels by the preſence of Chriſtian Emperors:* meaning that by their authority the Conciliary definitions paſs'd into laws. But who pleaſe to ſee more particulars relating to this inquiry, may be filled with the ſight of them in the whole third book of *William Ranchin* his Review of the Council of *Trent*.

Apol. ad Ruffin. lib. 2.

apud Baron. A. D. 590. to. 8. n. 40.

The ſupreme Civil power hath a power of external Judgement in cauſes of Faith.

13. This relies upon the former reaſons, That ſince propoſitions of religion and doctrines of Theology have ſo great influence upon the lives of men, upon peace and juſtice, upon duty and obedience, it is neceſſary that the ſupreme Civil power ſhould determine what doctrines are to be taught the people, and what to be forbidden. The Princes are to tell what religions are to be permitted and what not: and we find a law of *Juſtinian* forbidding anathematiſms to be pronounced againſt the Jewiſh *Helleniſts*; for the Emperors did not onely permit falſe religions by impunity, but made laws even for the ordering their aſſemblies, making Eccleſiaſtical laws for enemies of true religion: ſo neceſſary it is for Princes to govern all religion and pretences of religion within their Nations. This we find in the Civil law, in the title of the Code *de Judæis*, in many inſtances. A law was made by *Juſtinian* alſo that none ſhould be admitted into the Jewiſh Synagogues that denied Angels, or the Reſurrection, or the day of Judgment. Thus the Civil power took away the Churches from the *Maximianiſtæ*, becauſe they were an under ſect of the *Donatiſts* condemn'd by their ſuperiors. But then that the Chriſtian Princes did this and might doe this

Novel. 146.

and much more in the articles of true religion, is evident by many inſtances and great reaſon.

14. There is a title in the firſt book of the Code, *Ne ſacroſanctum baptiſma iteretur*, againſt the Anabaptiſts. *Charles* the Great made a decree againſt the worſhipping of Images, and gave ſentence againſt the ſecond *Nicene* Council in that particular: and *Sozomen* reports that *Conſtantine* cut off unprofitable queſtions, to prevent ſchiſmes in the Church; which example our Kings of *England* have imitated by forbidding publick preachers or Divines in ſchools to meddle in the curious queſtions of Predeſtination. Thus the publick laws of a Nation often declare who are and who are not heretics: and by an Act of Parliament in *England* they onely are judged heretics who for ſuch were condemn'd by the four general Councils. Upon this account many Princes have forbidden publick diſputations in matters of religion: to this purpoſe there was a law of *Leo* and *Anthemius*, *l. qui in Mon. C. de Epiſc. & Clericis*; and *Andronicus* the Emperor hearing ſome Biſhops diſputing with ſome ſubtilty upon thoſe words [*my Father is greater then I*] threatned to throw them into the river, if they would not leave ſuch dangerous diſputations. *Heraclius* the Emperor forbad any of thoſe nice words concerning Chriſt to be uſed: ſome did uſe to ſay that in Chriſt there was a ſingle energy, ſome ſaid there was a double; but the Emperor determin'd the queſtion well, and bad them hold their peace and ſpeak of neither: for, as *Siſinnius* ſaid to *Theodoſius*, *diſputando de ſacris accendi tantùm contentionem*, *there is nothing got by diſputations but ſtrife and contention:* and therefore Princes are the beſt Moderators of Church-mens quarrels, becauſe Princes are bound to keep the peace. And conſonantly to this *Iſidore* ſpake well, *Sanè per regnum terrenum cæleſte regnum proficit, ut qui intra Eccleſiam poſiti contra fidem & diſciplinam Eccleſiæ agunt, rigore principum conterantur, ipſamque diſciplinam quam Eccleſia humilitas exercere non prævalet, cervicibus ſuperborum poteſtas principalis imponat.* The Civil power advances the intereſts of the heavenly Kingdome by puniſhing them who ſin againſt the faith and diſcipline of the Church; if they be *intra Eccleſiam*, within the Church, their faith and manners both are ſubject to the ſecular judgment.

Vide l. nemo. ff. de ſumma Trinitate.

Nicet. Choniat.

a 3. q. 5. c. principes.

15. But not onely ſo, but they are to take care to ſecure & promote the intereſt of truth: for though, as S. *Paul* ſayes, *doubtful diſputations doe engender ſtrife*, yet we muſt *contend earneſtly for the faith*; with zeal, but yet with meekneſſe too: and therefore that matters of faith and doctrines of good life be eſtabliſhed, it is part of the Princes duty to take care. * According to which we find that when a rumour was ſpread that brought Pope *Pelagius* into ſuſpicion of hereſy, King *Childebert* ſent *Rufinus* to him to require him either to recite and profeſſe the Tome of S. *Leo* in which there was a good confeſſion of faith, or elſe that he ſhould doe the ſame thing in his own words. Pope *Pelagius* ſent this anſwer: *Satagendum eſt ut pro auferendo ſuſpicionis ſcandalo obſequium confeſſionis noſtræ*

* *Imperator, ut communis ἐκκλησιαρχης exiſtens & nominatus, Synodalibus præeſt ſententiis & robur tribuit, Eccleſiaſticos ordines componit, & legem dat vitæ politiaque eorum qui altari ſerviunt. Et rurſus ut uno verbo dicam, ſolo ſacrificandi excepto miniſterio, reliqua Pontificialia privilegia Imperator repræſentat.* Demetr. Chomaten. *in reſp. Orien.* Fragrius Leonis *Imp. Concilii Chalced. approbationem vocat deciſionem de fide, lib. 3. c. 4. & c. 5. videat lector totum hujus rei proceſſum ex l. 1. Heraclii, incip. Cum ſanctus, inter conſtit. Imperial. Cum S.* (inquit) *Sophronius, tunc ſummo Sacerdotio fungens Hieroſolymis, ſubjectis ſibi ſacerdotibus convocatis ſynodicè demonſtraſſet eos qui unam in duabus Chriſti naturis voluntatem atque energiam affirmarent palam unam quoque naturæ ſtatuere, eique Johannes Papa Romanus aſſenſus eſſet, Imperator edictum proponit, Neque ſingulariter, neque duplicem in Chriſto energiam eſſe aſſerendam,*

Regibus

Regibus miniſtremus, quibus etiam nos ſubditos eſſe ſacræ Scripturæ præcipiunt, We muſt take care that for the avoiding ſuſpicion we exhibit to Kings the duty of our confeſſion: For to them the holy Scriptures command even us to be obedient. And not onely for the Faith of Biſhops and even of Popes, but for their Manners alſo Kings were to take care, and did it accordingly. *Juſtinian* made laws that Biſhops ſhould not play at dice, nor be preſent at publick ſpectacles; and he ſaid of himſelf, *maximam habere ſe ſollicitudinem circa vera Dei dogmata, & circa Sacerdotum honeſtatem, that his greateſt care was about the true doctrines of God, and the good lives of Biſhops.* 25. q. 1. c. Satagendum. Novel. 123. c. 10.

16. I doe not intend by this, that whatſoever article is by Princes allowed is therefore to be accounted a part of true religion; for that is more then we can juſtify of a definition made by a Synod of Biſhops: but that they are to take care that true doctrine be eſtabliſhed; that they that are bound to doe ſo muſt be ſuppos'd competent Judges what is true doctrine, elſe they guide their ſubjects, and ſome body elſe rules them, and then who is the Prince? By what meanes and in what manner the Civil power is to doe this I am to ſet down in the next Rule; but here the queſtion is of the power, not of the manner of exerciſing it: and the anſwer is, that this power of judging for themſelves and for their people is part of their right; that no article of religion can become a law unleſſe it be decreed by God, or by the Prince; that the Biſhops declaration is a good indication of the law of God, but that the Princes ſanction makes it alſo become a law of the Common-wealth: that the Prince may be deceived in an article of religion is as true as that he may be deceiv'd in a queſtion of right, and a point of law; yet his determination hath authority, even when a better propoſition wants it: that error muſt ſerve the ends of peace, till by the doctrines of the wiſer Eccleſiaſtics the Prince being better informed, can by truth ſerve it better.

RULE VIII.

The ſupreme Civil power is to govern in Cauſes Eccleſiaſtical by the meanes and meaſures of Chriſt's inſtitution, that is, by the aſſiſtance and miniſteries of Eccleſiaſtical perſons.

1. KIngs are ſupreme Judges of the Law; for *cujus eſt loqui ejus eſt interpretari*, He that ſpeaks, beſt knows his own meaning: and the law-giver is certainly his own beſt interpreter. But in caſes where there is doubt, the ſupreme Civil power ſpeaks by them whoſe profeſſion it is to underſtand the laws. And ſo it is in religion. The King is to ſtudy the law of God; *nec hoc illi dictum ut totus ab alieno ore pendeat, ipſeque à ſe nihil dijudicet*, ſaid that learned Prelate of *Wincheſter*; *not that he ſhould wholly depend in religion upon the ſentences of others, but be able of himſelf to judge.* But where there is difficulty, and that it be fit that the difficulty be reſolved, there the ſupreme Civil power is to receive the aid of the Eccleſiaſtic, from whoſe mouth *the people are to require the law*, and whoſe lips by their Tortur. Tort.

office and deſignation are *to preſerve knowledge*. The Doctors of the Jews tell that when *Jephthah* had made a raſh vow, he might have been releas'd if he had pleas'd: For if a horſe had firſt met him, he had not been bound to have offer'd it to God; but it muſt have been ſold, and a ſacrifice be bought with the price; and much more muſt a man or a woman have been redeem'd. But becauſe *Jephthah* was a Prince in *Iſrael*, he would not goe to *Phinehas* the high Prieſt to have had his vow interpreted, commuted, or releaſed. Neither would *Phinehas* goe to him, becauſe he was not to offer his help till it was implor'd. *Phinehas* did not goe to *Jephthah*, for he had no need, he had no buſineſſe: and *Jephthah* would not goe to *Phinehas*, becauſe he was the better man. In the mean time the Virgin died, or, as ſome ſay, was kill'd by her Father: but both Prince and Prieſt were puniſhed, *Jephthah* with a palſy, and *Phinehas* was depriv'd of the Spirit of God. For when the Prince needs the Prieſt he muſt conſult him; and whether he conſults him or no, the Prieſt muſt take care that no evil be done by the Prince, or ſuffer'd by him for want of Counſel.

2. But the Princes office of providing for religion, and his manner of doing it in caſes of difficulty are rarely well diſcours'd of by *Theodoſius* the younger in a letter of his to S. *Cyril*, of which I have formerly mentioned ſome portions..... *Pietatis doctrinam in ſacra Synodo in utramque partem ventilatam eatenus obtinere volumus quatenus veritati & rationi conſentaneum eſſe judicabitur*, *The doctrine of godlineſſe ſhall be diſcuſs'd in the ſacred Council, and it ſhall prevail or paſſe into a law ſo far as ſhall be judg'd agreeable to truth and reaſon.* Where the Emperour gives the examination of it to the Biſhops to whoſe office and calling it does belong: but the judgment of it and the ſanction are the right of the Emperor, who would ſee the Decrees ſhould be eſtabliſhed if they were true and reaſonable. The judgement I ſay was the Emperors, but in his judgement he would be adviſed, taught and eſtabliſhed by his Biſhops. *Sed nec eam doctrinam indiſcuſſam patiemur; cui dijudicandæ eos præfici oportet qui ſacerdotiis ubivis gentium præſident, per quos & nos quoque in veritatis ſententia ſtabilimur, & magis magiſque identidem ſtabiliemur*, *That doctrine that is in queſtion we will not ſuffer to eſcape examination; but thoſe ſhall be preſidents of the judgment who in every Nation are the appointed Biſhops, by whom we alſo our ſelves are confirmed in the true Religion, and hope every day to be more and more eſtabliſhed.*

3. When the ſupreme power hath call'd in the aid and office of the Eccleſiaſtic, good Princes uſe to verify their acts accordingly, to eſtabliſh their ſentences, to puniſh the convict, to exterminate heretics and ſuppreſſe their doctrines. Thus *Honorius* and *Arcadius* the Emperors by an Edict repreſſed *Pelagius* and *Cæleſtius* whom the Biſhops had condemn'd; *Conſtantine* after the ſentence of the *Nicene* Fathers againſt *Arius*, baniſh'd him. *Theodoſius* the Elder having diligently conferr'd with the Orthodox Biſhops, and heard patiently what the others could ſay, by a law forbad them to have publick aſſemblies who denied the Conſubſtantiality of the Son with the Father. *Per Conſilium Sacerdotum & Optimatum ordinavimus, conſtituimus, & diximus*; it was the ſtyle of King *Pepin* in the Council of *Soiſſons*. And of this nature the inſtances are very numerous. For *ſemper ſtudium fuit Orthodoxis & piis Imperatoribus pro tempore exortas hæreſes per congregationem religioſiſſimorum Archiepiſcoporum amputare, & rectâ fide ſincerè*

Sozom. l. 7. c. 12.

cerè prædicata in pace ſanctam Dei Eccleſiam cuſtodire, ſaid *Theodorus Silentiarius*. All the pious and orthodox Emperors did uſe this inſtrument and manner of proceeding, for the cutting off hereſies, and the ſincere publication of the faith, and the conſervation of the Church in peace. in 5ta Synod. Conſtant.

4. But that this manner of Empire may not prejudice the right of Empire, it is to be obſerved that in theſe things the Emperors us'd their own liberty, which prov'd plainly they us'd nothing but their own right. For ſometimes they gave toleration to differing Sects, ſometimes they gave none; ſometimes they were govern'd by zeal, and ſometimes by gentle Counſels, onely they would be carefull that the diſputes ſhould not break the publick peace: but for their puniſhing Recuſants and Schiſmatics they us'd their liberty; ſo we find in the Acts of the great *Epheſin* Council, that *Theodoſius* the 2d reſolv'd of one, but not upon the other. *At verò ſive illi veniam impetraturi ſint qui à Patribus victi diſcedent, ſive non, nos ſanè civitates ſimul & Eccleſias conturbari nequaquam ſinemus, Whether thoſe who are convict of hereſy by the Fathers ſhall be pardon'd yea or no, yet we will be ſure not to ſuffer the Republick or the Churches to be diſturbed.*

5. This I obſerve now in oppoſition to thoſe bold pretences of the Court of *Rome*, and of the Presbytery, that eſteem Princes bound to execute their decrees, and account them but great miniſters and ſervants of their ſentences. Now if this be true, then Princes muſt confirm all that the Clergy decrees: If all, then the ſupreme Prince hath leſſe then the meaneſt of the people, not ſo much as a judgement of diſcretion; or if he have, it is worſe, for he muſt not uſe his diſcretion for the doing of his duty, but muſt by an implicite faith and a blind brutiſh obedience obey his Maſters of the Conſiſtory or Aſſembly. But if he be not bound to confirm all, then I ſuppoſe he may chuſe which he will, and which he will not: and if ſo, it is well enough; for then the ſupreme judgment and the laſt reſort is to the Prince, not to his Clercs. And that Princes are but Executioners of the Clergyes ſentences is ſo far from being true, that we find *Theodoſius* refuſing to confirm the Acts of the great *Epheſin* Council: for having been informed (though falſely) that affaires were carried ill, he commanded the Biſhops to reſume the queſtion of the *Neſtorians*: for their acts of condemnation againſt them he made null, and commanded them to judge it over again, and that till they had done ſo, they ſhould not ſtirre to their Biſhopricks. The miniſtery was the Biſhops all the way, but the external judgement and the legiſlative was the Princes. So *Charles* the Great reform'd the Church, *Epiſcopos congregavi*, &c. *I convocated the Biſhops to counſel me how Gods law and Chriſtian religion ſhould be recover'd. Therefore by the counſel of my Religious Prelates and my Nobles we have appointed Biſhops in every City, and Boniface their Archbiſhop, and appoint that a Synod ſhall be held every year, that in our preſence the canonical decrees and the rights of the Church may be reſtor'd, and Chriſtian religion may be reformed.* But becauſe this muſt be evident as a conſequent of all the former diſcourſes upon this queſtion; it will be ſufficient now to ſumme it up with the teſtimony of S. *Auſtin* writing to *Emeritus* the Donatiſt. *Nam & terrenæ poteſtates cum ſchiſmaticos perſequuntur eâ regulâ ſe defendunt, quia dicit Apoſtolus, Qui poteſtati reſiſtit, Dei ordinationi reſiſtit.... Non enim fruſtra gladium portat, When the Civil power puniſhes Schiſmatics they have a warrant from an Apoſtolical Rule, which ſayes, He that reſiſts, reſiſts the ordinance of* apud Acta Concil. Epheſ. in liter. Theod. ad Synod. apud Surium die 5. Jun. Epiſt. 164.

God: For they bear not the ſword in vain. It is not therefore by a commiſſion or a command from the Church that they puniſh Schiſmatics, but [*conſtituunt adverſus vos pro ſua ſollicitudine ac poteſtate quod volunt*] *they decree what they pleaſe againſt them according to their own care and their own power.*

6. So that when it is ſaid that Princes are to govern their Churches by the conſent and advice of their Biſhops, it is meant not *de jure ſtricto*, but *de bono & laudabili*: It is fit that they doe ſo, it is the way of Chriſts ordinary appointment; *He that heareth you heareth me*: and to them a command is given, *to feed* all *the flock of Chriſt*. In purſuance of which it was a famous reſcript of *Valentinian* the firſt, cited by S. *Ambroſe*, *In cauſa fidei vel Eccleſiaſtici alicujus ordinis eum judicare debere qui nec munere impar ſit, nec jure diſſimilis*. Theſe are the words of the reſcript: that is, he would that Biſhops ſhould judge of Biſhops; and that in cauſes of faith or the Church their miniſtery ſhould be us'd, whoſe perſons by reaſon of the like imployment were moſt competent to be put in delegation. But to the ſame purpoſe more of theſe favourable Edicts were made in behalf of the Church by *Theodoſius* and *Valentinian* the ſecond, by *Arcadius*, *Honorius* and *Juſtinian*: and indeed beſides that it is reaſonable in all caſes, it is neceſſary in very many; becauſe Biſhops and Prieſts are the moſt knowing in ſpiritual affaires, and therefore moſt fit to be counſellors to the Prince, who oftentimes hath no great skill, though he have ſupreme authority. I remember that when *Gellius* the Prætor was ſent Proconſul into *Greece*, he obſerv'd that the Scholars at *Athens* did perpetually wrangle and erect ſchools againſt ſchools, and divided their philoſophy into Sects; and therefore ſending for them, perſuaded them to live quietly and peaceably, and to put their queſtions to reference or umpirage, and in it offerr'd his own aſſiſtance: but the Scholars laught at his confident offer to be a moderator in things he underſtood no more then his ſpurres did. He might have made them keep the peace, and at the ſame time make uſe of their wit and his own authority. And although there may happen a caſe in which Princes may, and a caſe in which they muſt refuſe to confirm the ſynodical decrees, ſentences and judgements of Eccleſiaſtics: yet unleſſe they doe with great reaſon & upon competent neceſſity, they cannot doe it without great ſcandal, and ſometimes great impiety. But of this I ſhall diſcourſe in the next Chapter. For the preſent, I was to aſſert the rights of Princes, and to eſtabliſh the proper foundation of humane laws; that the Conſcience may build upon a rock, and not truſt to that which ſtands upon ſand, and truſts to nothing.

lib. 5. Epiſt. 32.

lib. 1. Cod. Theod. de rel. lig. Novel. Valen. de Epiſc. Jud. l. graviter. ibid. Novel. 89.

Cicer. lib. 1. de leg.

7. I have been the larger upon theſe things becauſe the adverſaries are great and many, and the pretences and the challenges high, and their oppoſition great and intricate, and their affrightments large; for they uſe ſomething to perſwade and ſomething to ſcare the conſcience. Such is that bold ſaying of Pope *Leo* the x^th^, *A jure tam Divino quam humano laicis poteſtas nulla in Eccleſiaſticas perſonas attributa eſt*, *Both by Divine and humane laws Eccleſiaſtics are free from all ſecular power*. But fierce and terrible are the words of the Extravagant *Unam ſanctam*. *Porro ſubeſſe Romano Pontifici omnem humanam creaturam declaramus, dicimus, definimus & pronunciamus omnino eſſe de neceſſitate ſalutis*, *That every man ſhould be ſubject to the Biſhop of Rome, we define, we ſay, we declare and pronounce to be altogether neceſſary to ſalvation*. This indeed is high; but how vain withal and

Concil. Later. ſub Leon. x.

and trifling and unreaſonable I have ſufficiently evidenc'd. So that now the conſcience may firmly rely upon the foundation of humane laws, and by them ſhe is to be conducted not onely in Civil affaires, but in Eccleſiaſtical, that is, in religion as well as juſtice: and there is nothing that can prejudice their authority, unleſſe they decree againſt a law of God; of which becauſe Eccleſiaſtical perſons are the preachers and expoſitors by ordinary Divine appointment, Princes muſt hear Biſhops, and Biſhops muſt obey Princes: or becauſe *audire & obaudire* to *hear* and to *obey* have great affinity, I chuſe to end this with the expreſſion of Abbot *Berengar* almoſt 1100 years agoe, *Sciendum eſt quod nec Catholicæ fidei nec Chriſtianæ contrarium eſt legi, ſi ad honorem regni & ſacerdotii Rex Pontifici & Pontifex obediat Regi, It is neither againſt the Catholic faith nor the Chriſtian law that the Prince obey the Biſhop, and the Biſhop obey the Prince*: the firſt is an obedience of *piety*, and the later of *duty*; the one is *juſtice*, and the other is *religion*. lib. de Myſter. ſign. in Biblioth. SS.PP.

CHAP. IV.

Of the power of the Church in canons and cenſures, with their obligations and powers over the conſcience.

RULE I.

The whole power which Chriſt hath left in ordinary to his Church is merely ſpiritual.

1. THat there are great things ſpoken by the Doctors of the Primitive Church of the Eccleſiaſtical or ſpiritual power is every where evident, and that there are many expreſſions which prefer it above the ſecular; all which I ſhall repreſent in ſtead of others in the words of S. *Chryſoſtom*, becauſe of them all he was the moſt eloquent, and likelieſt in the faireſt imagery to deſcribe the powers of his Order. *Others are the limits of the Kingdome, others of the Prieſthood; for this is greater then that: and you muſt not eſtimate it by the purple and the gold. The King hath allotted to him the things of this world to be adminiſtred; but the right of Prieſthood deſcendeth from above: Whatſoever ye ſhall bind on earth ſhall be bound in heaven. To the King is committed what is here below; to me, that is to the Biſhop, things celeſtial. The bodies are intruſted to Princes, but the ſoals to Biſhops. The King remits the guilt of bodies, but the Biſhop the guilt of ſinnes. The Prince compels, the Biſhop exhorts. He governs by neceſsity, but we by counſel; he hath ſenſible armour, but we ſpiritual weapons; he wageth warre againſt the* Barbarians, *but we againſt the Devil. Here then is a greater principality. For which cauſe the King ſubmits himſelf to the Prieſts hand, and every where in the Old Teſtament the Prieſts did anoint Kings.* Where by the way, Hom. 4. ex verb. Iſaiæ.

2 Kings 9. 4. though it be not exactly true that the Kings of *Israel* and *Judah* were always anointed by Priests, but sometimes by Prophets who were no Priests, as in the case of *Jehu*; yet supposing all that, the discourse is true enough, and the spiritual power in relation to a nobler object is in that regard better then the temporal; and therefore is in spiritual account in order to a spiritual end above that which serves the lesse excellent. But the effect of this discourse is, that Kings are subject to Bishops just as the Princes of *Israel* were to those that anointed them; that is, they came under their hands for unction, and consecration, and blessing, and counsel, and the rites of sacrifice. And all this is very true; and this is all that was or could be intended by S. *Chrysostom*, or those other eminent lights of the Primitive Church, who set their Order upon a candlestic, and made it illustrious by the advantage of comparison. The advantages are wholly spiritual, the excellencies are spiritual, the operations are spiritual, and the effects are spiritual; the office is spiritual, and so is all the power. But becaus the persons of the men in whom this spiritual power is subjected are temporal as well as Princes, and so are all their civil actions, therefore whatever eminence they have for their spiritual imployment, it gives them no temporal advantage; that comes in upon another stock: but for the spiritual it is as much as it is pretended; but then it is no more.

2. For it is purely spiritual. Where any thing of temporal is mingled with it, it is not greater in that, but subject to the temporal power. Without this there could never be peace: and where the jurisdiction of two Courts doe enterfere, there is perpetual wranglings. But God having ordain'd two powers hath made them both best; and yet so that both of them are inferior: but becaus it is in differing powers, they both rule in peace, and both obey with pleasure. How the Eccleſiastic state is subject to the Civil I have largely accounted: Now I am to describe the eminencies, powers, advantages and legislations of the spiritual: concerning which we shall have the best light if we rightly understand the nature and quality of the power.

3. *As my Father sent me, so send I you*, said Christ to his Apostles. Now it is plain how the Father was pleas'd to send his Son; with humility and miracles, with a low fortune and a great designe, with poverty and power, with fulnesse of the spirit and excellency of wisdome. That was the manner. The end was, the redemption of Man, the conquering of the Devil, the preaching of the Gospel, the foundation of the Church, the instruction of faith, the baptizing Converts, the reformation of manners, the extirpation of sinne. This was the intire end, and that was the just manner in which Christ was sent into the world: And since his Apostles & their successors were to pursue the same ends and no other, they were furnished with the same power: and Christ gave them the Holy Ghost, and gave them commandement and power to *teach all Nations, to baptise them*, to bind and to loose, to minister his body and his bloud, to exhort and to reprove, to comfort and to cure, to make spiritual separations of the vile from the precious. This is the summe of all the Commissions they had from Christ.

4. This power and these commissions were wholly Ministerial without domination, *without proper jurisdiction*, that is, without coaction; it being wholly

wholly againſt the deſigne of the religion, that it ſhould be forc'd; and it being far remov'd from perſons ſo diſpos'd, ſo imployed, ſo inſtructed to doe it. And therefore one of the requiſites of a Biſhop is μὴ εἶναι πλικτικὸν, *He muſt be no ſtriker:* he had no armes put into his hand to that purpoſe; the Eccleſiaſtic ſtate being furniſhed with authority, but no power, that is *authoritate ſuadendi, non jubendi poteſtate* (that I may uſe the expreſſion in *Tacitus*) *an authority to perſuade* and to rebuke, *but no power to command*, as the word is us'd in the ſenſe of ſecular dominion.

5. Concerning which that the thing be rightly underſtood, we muſt firſt truly underſtand the word. *Accurſius* defines Jurisdiction to be *poteſtatem de publico introductam cum neceſſitate juris dicendi & æquitatis ſtatuendæ*, A publick power of doing right and equity. It is *poteſtas ad jus dicendum*, ſo *Muſcornus Cyprius*, A power of giving ſentence in cauſes between party and party. But we ſhall beſt underſtand the meaning of *Jurisdictio* by that place of *Cicero*. *Quid ergo iſtius in jure dicendo libidinem demonſtrem? Quis veſtrum non ex urbana jurisdictione cognovit? Quis unquam iſto Prætore Chelidone invitâ lege agere potuit? Judices citari jubet: jubet citari Heraclium: citatur reus Sopatrus: Stenium citari jubet: atque ut aliquando de rebus ab iſto cognitis, judicatis, & de judicibus datis deſiſtamus dicere*, &c. From which words it is plain, that jurisdiction is a power of magiſtracy to ſummon the parties, to hear their cauſe, and to give ſentence. And therefore in *Suetonius* we often find theſe expreſſions, *Imperatorem jus dixiſſe, cognoviſſe, judicaſſe, The Emperor took cogniſance, did judge, did give ſentence*, that is, did exerciſe jurisdiction. Empire is always included under jurisdiction; and it is divided into a cognition of capital and pecuniary cauſes, as appears plainly in the title of the Code *De jurisdictione*, which handles both cauſes: and *Aſconius Pædianus* in his argument upon the 4th action againſt *Verres* proves expreſſely that Capital actions are part of jurisdiction. To which purpoſe is that of *Suetonius* in the life of *Auguſtus*; *Dixit autem jus non diligentiâ modo ſummâ ſed & lenitate, ſiquidem manifeſti parricidii reum, ne culleo inſueretur, quod non niſi confeſſi afficiebantur hâc pœnâ*, &c. But of this there is no queſtion. Now of jurisdiction thus underſtood, it is evident that the Eccleſiaſtic ſtate hath no right derived to them from Chriſt, that is, no power to puniſh any man corporally, or to compel them to anſwer in criminal cauſes; they have no power of the ſword, no reſtraint upon the body: but having care of ſouls, which cannot be govern'd by force, they are to govern as ſouls can be governed, that is by arguments and reaſon, by fear and hope, by preaching of rewards and puniſhments, and all the ways of the nobleſt government, that is, by wiſdome and by the ways of God.

in l. 1. in verbo Poteſt. FF. de jurisdict.

Orat. in Verrem 4ta.

Cap. 33.

6. This appears in the Apoſtles deſcription of their own office & power. What is *Paul* and what is *Apollo*, but *Miniſters by whom ye believed? Miniſters of Chriſt, ſtewards of the Myſteries of Chriſt: to us is committed the word of reconciliation; we are Embaſſadors for Chriſt;* ὡς κυριεύοντες *we are not lords over the flock*; but *as though God did beſeech you by us, we pray you in Chriſts ſtead to be reconcil'd to God.* Thus Chriſt ſet them over the houſhold, not to ſtrike the ſervants, but *to give them their meat in due ſeaſon*; that is, as *Optatus* expreſſes it, to miniſter the food of Gods word and Sacraments to the ſervants of the family. *Nolite vobis majeſtatis dominium vindicare; nam ſi ita eſt, vindicent ſibi & miniſtri qui menſa dominica famulantur*

1 Cor. 3. 2 Cor. 5. 2 Cor. 6. Act. 26. Luke 12.

lib. 5. contr. Parmen.

lantur, ut pro humanitate exhibita ab invitatis gratulatio eis referatur.... Est ergo in universis servientibus non dominium sed ministerium. Therefore esteem not your selves to have any thing but the ministery and service, nothing of dominion. And indeed we need challenge no more: It is honour enough to serve such a Prince, to wait at such a table, to be stewards of such a family, to minister such food. This service is perfect freedome; and that is more then can be said of the greatest temporal dominion in the world. *Principes Ecclesiæ fiunt ut serviant minoribus suis, & ministrent eis quæcunque acceperunt à Christo.* The same with the words of Christ, *He that is greatest amongst you, let him be your minister. For the honours in Christian religion at the first look indeed like dignities; but indeed they are not divers honours, but divers services: as it seems to be an honour to the eye that it enlightens the whole body, but it is not it's honour, but it's ministery; so it is amongst the Saints; it is not his honour, but his act. And so is the Apostleship thought to be a great dignity, but it is not so; but it is his ministery. For so S.* Paul *sayes, If I preach the Gospel it is no glory to me: for necessity is laid upon me, and woe is unto me if I doe not preach the Gospel: for if I doe it willingly, I have a reward; but if unwillingly, there's nothing but a stewardship intrusted to me.* The consequent of this discourse is this in the words of the same Father, *Quicunque desiderat primatum in terra inveniet confusionem in cælo,* Whosoever desires primacy (meaning amongst the Ecclesiastics, and by vertue of their order and office) *upon earth, shall find confusion in Heaven.*

Homil. 35. in Matt. apud Chrysost.

ibid.

1 Cor. 9.

7. But this is most expressely and clearly taught by the Fathers of the Church. So S. *Gregory Nazianzen, He that is set over others* (speaking of Bishops) *laying behind him every sin, must proceed in godlinesse, so that by the example of his spiritual growth he may draw others unto vertue, especially by that form of humility which was deliver'd to us by the Lord. Non enim oportet vi vel necessitate constringere, sed ratione & vitæ exemplis suadere, For no man is to be constrained by force or by necessity, but perswaded by reason and good examples.* And thus S. *Hierome* distinguishes the Ecclesiastical power from the Regal. *Ille nolentibus præest, hic volentibus: ille terrore subjicit, hic servituti donatur: ille corpora custodit ad mortem, hic animas servat ad vitam.* The King *governs whither men will or no,* the Bishop *none but the willing. He subdues them by terror, but the Bishop is but the servant of the peoples souls. The King keeps bodies reserv'd for death, but the Bishop takes care of souls that they may live eternally.* Upon this account S. *Chrysostom* considers the great difficulty there is in the discharge of the Episcopal office, and affirms it to be more troublesome then that of Kings; as much as the rage of the sea in a tempest is greater then the curlings of a troubled River: and he gives this reason for it, *Quoniam illic plures sunt qui adjuvant, eo quod legibus ac mandatis omnia peraguntur: hic verò nihil tale, neque enim licet ex authoritate præcipere,* Because *there are more helpers* in the secular government; *for all things are transacted by laws and by commandements: but here* (meaning in the Ecclesiastic state) *there is no such thing; for* it is lawfull, but *we have no authority to command any thing.* For * *In potestate subjectorum est obedire vel non.* They are not domestics, they are not properly subjects, but *obedientiam habentes in sua ipsorum potestate, they have their obedience in their own power:* they may if they will, and they shall have a good reward; but if they will not, they may chuse. For with this power and upon these termes *the Holy Ghost hath made*

in Apologet.

in Epitaph. Nepot. Ep. 3.

Homil. 3. in Acta Apost.

* Homil. 3. in Tit. Hom. 3. in Acta.

made them overſeers, to feed, not to rule, *the Church of God*, that is, not to rule by Empire, but by perſuaſion. And this is intimated by the Epiſtle to the Hebrews *Obey them that are ſet over you, and ſubmit your ſelves; for they watch for your ſouls: that they may doe it with joy, not with grief; for that is unprofitable for you.* That is, Submit your ſelves to your ſpiritual Rulers cheerfully and willingly: if you doe not, they can have no comfort in their miniſtery; it will grieve them to find you refractary, and you will be the looſers by it, for their grief will doe you no profit. Now if theſe Rulers had a power of coercion, he could quickly make them willing, and the ἀναγκὴ the anguiſh would fall upon the diſobedient. The ſame precept is in the Epiſtle to the *Theſſalonians*, where the words doe themſelves expound the nature of the government, *We beſeech you, brethren, to know them which labour amongſt you and are over you in the Lord, and admoniſh you, and to eſteem them very high in love for their works ſake.* And immediately after he calls them *in partem ſollicitudinis*, into a participation of this rule, νουθετεῖτε ἀτάκτους, *We beſeech you, brethren, to admoniſh*, or to warne, to reprove *them that are unruly.* That is, you muſt help us in our government: we are over you to admoniſh you, but you muſt admoniſh one another: that will help our work forward when you are willing. But *they which are over you* muſt be highly eſteemed, not for their dignity, but for their works ſake, not in fear, but *in love*; for they are over you not by Empire, but by diſcourſes, not by laws, but by exhortation. And certainly this is the beſt government in the world; that the people of God *ſit populus voluntarius* ſhould ſerve God with reaſon and choice, with love and pleaſure and eternity of ſatisfaction. And this is obſerved alſo by S. *Chryſoſtom. The Princes of this world* (ſaith he) *are ſo much inferior to this ſpiritual power, by how much it is better to rule over the wills of men then over their bodies:* and that's the ſtate of Eccleſiaſtical government, concerning which who pleaſe to ſee much more, may with pleaſure read it in S. *Chryſoſtom* in his firſt Homily upon the Epiſtle to *Titus*, and the 11th Homily upon the Epiſtle to the *Epheſians*, and in his ſecond book *of Prieſthood.*

Hebr. 13. 17.

1 Theſſ. 5. 12.

v. 14.

8. Now againſt this it will not be ſufficient to oppoſe any precedents of government under the Old Teſtament. He there that did not obey the word of the High Prieſt was to die the death; for they had ἀναγκαστικὴν δικαιοχρισίαν, a true proper formal juriſdiction given them by God: and when *Moſes* ſate in judgement, σωιδρευον ἱερεῦς, ſaith *Philo*, the Prieſts were his aſſeſſors; and *Judæis ſacerdotii honos firmamentum potentiæ erat, the honour of the Jewiſh prieſthood was a great eſtabliſhment to the power of the Nation*, ſaith *Tacitus.* For the Prieſts were ἐπίσκοποι *Biſhops*, and Judges of controverſies, and by the law appointed to inflict puniſhment upon criminals, ſaid *Joſephus.* But in the Goſpel there was no ſuch thing. The Jewiſh excommunications were acts of power and a mixt Empire; ours are ſecurities to the ſound part, and cautions againſt offenders. Their preachings were decrees ſometimes; ours can be but exhortations and arguments to perſuade and invite conſent.

Deuter. 17. 8.

contr. Appion. l. 11. c. 6.

9. But neither can it be denied but that the Apoſtles did ſometimes actions of a delegate juriſdiction. Thus S. *Peter* gave ſentence of death againſt *Ananias* and *Sapphira*; S. *Paul* inflicted blindneſſe upon *Elymas* the Sorcerer, and deliver'd *Hymenæus* and *Alexander* and the inceſtuous *Corinthian*

to

to be buffeted by Satan; and S. *John* threatned to doe the like to *Diotrephes*. That this was extraordinary appears by the manners of animadversion, which were by miracle and immediate Divine judgment; for those which were delivered to Satan were given up to be corporally tormented by some grievous sickneſſe or violence of an evil ſpirit, as [a] S. *Chryſoſtom*, [b] S. *Ambroſe*, S. *Hierom*, and divers others of the Fathers doe affirm. But therefore this was an act of Divine jurisdiction, not of Apoſtolical: It was a miraculous verification of their Divine miſſion, ſeldome us'd, not by ordinary emiſſion of power, but by an extraordinary ſpirit: for ſo S. *Paul* threatned ſome criminals in the Church of *Corinth*, that if he did come *he would not ſpare them*: but it was becauſe they made it neceſſary by their undervaluing of his perſon and miniſtery. Since ye doe ſo, ſince ye doe look for a ſigne and proof of Chriſt ſpeaking in me, you ſhall have it. It is not S. *Pauls* ordinary power, nor his own extraordinary, but δοκιμὴ Χριϛοῦ an experiment of Chriſt's power, who was pleas'd to miniſter it by S. *Paul*, as well as by any other Apoſtle: ſomething like thoſe words of our Bleſſed Saviour, *An evil and adulterous generation ſeeketh after a ſigne; and the ſigne of the Prophet Jonas ſhall be given them.* But then there was great neceſſity, and ſome prodigious examples were to be made to produce the fear of God and the reverence of religion, that the meanneſſe and poverty of the Miniſters might not expoſe the inſtitution to contempt: and becauſe the religion was deſtitute of all temporal coercion, and the Civil power put on armor not for it but againſt it, therefore God took the matter into his own hand, and by judgments from heaven verified the preachings Apoſtolical. Thus when the *Corinthians* did uſe the Lord's Supper unworthily God puniſhed them with ſickneſſe and with death, as the Apoſtle himſelf tells them: for to denounce them after and to pronounce them before were equal actions of miniſtery, but equally no parts of jurisdiction. This way continued in the Church, though in very infrequent examples, till the Emperors became Chriſtians, and by laws and temporal coercions came to ſecond the word of Eccleſiaſtical Miniſtery. For S. *Cyprian* tells of ſome perſons who being afflicted with evil ſpirits were cur'd at their baptiſme, who afterwards upon their apoſtaſy from the faith were afflicted again, and again fell into the power of the Devil: *Recedente ſiquidem diſciplina receſſit & gratia*; when they forſook Chriſt, himſelf took the matter into his own hand, and was not wanting by an act of his own jurisdiction to declare that he was their Lord, and would be honour'd by them or upon them.

[a] 1 Corinth. homil. 15.
[b] de Pœnit. l. 1. c. 17.
S. Auguſt. contr. Epiſt. Parmen. l. 3. c. 1.
2 Cor. 13. 2.
1 Cor. 11. 30.
Epiſt. 75.

10. And this was *the rod* that S. *Paul* threatned to the Schiſmatical *Corinthians*; not any emanation of the ordinary power of miniſtery, but a miraculous conſignation of it: for theſe things (as S. *Chryſoſtom* obſerves) S. *Paul* calls *ſigna Apoſtolatus mei, the ſignes of his Apoſtleſhip* wrought among them in ſignes and miracles and powers: this was effected in healing the ſick, and in ſtriking the refractary with the rod of God; in giving ſight to the blind, and making them blind that would not ſee; in raiſing the dead to life, and cauſing them to die that would not live the life of righteouſneſſe. But this was not done ἰδίᾳ δυνάμει, not *by any power of their own*, but by that power to which they onely miniſtred, by the power of Chriſt who (bleſſed be his holy Name for it) keeps this power onely in his own hands. In theſe their power was no more a power of jurisdiction then *Elias* had, who, as S. *James* ſaid, *prayed that it might* and *prayed that it might not rain*; and

2 Cor. 12. 12. Homil. 14. in 1 Cor. Homil. 29. in 2 Cor. Homil. 5. in 1 Tim.

and call'd for fire from heaven. And juſt ſo the Apoſtles being mov'd by an extraordinary ſpirit did, when the ſpirit ſaw cauſe, miniſter to the Divine judgment. But that was not their work; they were ſent of another errand, and were intruſted with other powers.

11. But after all this, it is certain that there were in the Church ſome images and ſimilitudes of jurisdiction in their ſpiritual government. The ſoul is not, cannot be, properly ſubject to any jurisdiction but that of God. For jurisdiction is the effect of legiſlation, and is in the *mixt Empire* as the other is in the *mere*. Now none can give laws to ſouls but God; he onely is Lord of wills and underſtandings; and therefore none can give judgment or reſtraint to ſouls but God. But as by *preaching* the Eccleſiaſtic ſtate does imitate the legiſlation of God; ſo by the power of the Keyes ſhe does imitate his jurisdiction. For it is to be obſerved that by the Sermons of the Goſpel the Eccleſiaſtics give laws to the Church, that is, they declare the lawes of God; and by the uſe of the Keyes they alſo declare the Divine jurisdiction: for as the Church can make no law of Divine worſhip or Divine propoſitions, of faith or manners, but what ſhe hath received from Chriſt and his Apoſtles; ſo neither can ſhe exerciſe any judgment but the judgment of God. To that ſhe miniſters by threatnings and denunciations, by comforts and abſolutions, as ſhe miniſters to the legiſlative of God by preaching and publiſhing, by exhortation and *command*.

12. For there is an Empire in preaching; there is a power of Command which the Biſhops and Miniſters of the Church of God muſt exerciſe. To this purpoſe S. *Chryſoſtom* diſcourſes excellently, *There are ſome things which need teaching, ſome which need commanding: if therefore you invert the order, and had rather command where it is neceſſary for you to teach, you are ridiculous; and as bad if you goe about to teach where you rather ſhould command. That men ſhould doe no evil, you need not teach, but to forbid it with the force of a great authority: and ſo you muſt command them that they ſhould not give heed to Jewiſh fables: But if you would have them give their goods to the poor, or keep their virgin, here you have need of doctrine and exhortation. Therefore the Apoſtle ſaid both, Command and teach..... Thus you ſee that a Biſhop muſt not onely teach, but ſometimes it is neceſſary that he ſhould command.* * But then this being a doctrinal precept, or commanding by the force of a clear and confeſſed doctrine, hath in it no other Empire but that it is a Commanding in the Name of God, and means this onely, that ſome things are ſo clear and obvious, ſo neceſſary and confeſs'd, that he who neglects them is condemn'd by himſelf; he need not be taught, but onely commanded to doe his duty: but if he will not, God, who gave him the law, hath alſo jurisdiction over him: and to this alſo the Church does miniſter; for the Biſhop commands him in Gods Name, and if he will not, he can puniſh him in Gods Name, that is, he can denounce Gods judgments againſt him; and that's our miniſterial jurisdiction: he can declare him to be out of the way of ſalvation, and unworthy to receive the holy myſteries and pledges of ſalvation. This is our coercion.

Homil. 13. in 2 Tim.

13. But the uſe of the Keyes does differ from proper jurisdiction in this great thing, That if the Keyes be rightly us'd they doe bind or looſe reſpectively; but if they erre, they doe nothing upon the ſubject, they neither bind nor looſe. Now in proper jurisdiction it is otherwiſe: for, right or wrong, if a man be condemn'd he ſhall die for it; and if he be

hang'd he is hang'd. But the Church gives nothing but the ſentence of God, and tells upon what termes God will or will not pardon. If the Prieſt miniſter rightly and judge according to the will and laws of God, the ſubject ſhall find that ſentence made good in heaven by the real events of the other world, which the Prieſt pronounces here upon earth. But if the Prieſt be deceived, he is deceiv'd for himſelf and for no body elſe; he alters nothing of the ſtate of the ſoul by his quick abſolution, or his unreaſonable binding. For it is not true here which the Lawyers ſay of humane Jurisdictions, *Quod Judex errans pronunciavit, ob authoritatem jus dicentis tranſit in rem judicatam.* The Prieſt hath no ſuch authority, though the Civil power have. The error of the Judge does not make the ſentence invalid; his authority prevails above his error: but in the other it is the caſe of ſouls, and therefore is conducted by God onely as to all real and material events, and depends not upon the weakneſſe and fallibilities of men. And therefore the power of remitting ſins given to the Church, is nothing but an authority to miniſter that pardon which God gives by Jeſus Chriſt. The *Church pardons ſins as the Levitical Prieſt did cleanſe the lepers*, ſaid S. *Hierom*; that is, he did diſcern whether they were clean or no, and ſo reſtor'd them to the congregation: but *apud Deum non ſententia Sacerdotum, ſed reorum vita quæritur, God regards not the ſentence of the Prieſt, but the life of the penitent.* For *the Prieſt, aliquid eſt ad miniſtrandum ac diſpenſandum verbum ac ſacramenta, ad mundandum autem & juſtificandum non eſt aliquid; is ſomething as to the miniſtery and diſpenſation of the word and ſacraments, but nothing as to the purifying and juſtification of a ſinner: for none works that in the inward man but he who created the whole man.* They are the words of S. *Auſtin.* This therefore is but *verbum reconciliationis; the word of reconciliation is intruſted to us:* but we properly give no pardon, and therefore inflict no puniſhment.

14. Indeed the power of the Keyes is by a Metaphor chang'd into a ſword, and S. *Pauls* wiſh [*I would they were even cut off that trouble you*] ſeems to be the warrant; and by excommunications evil perſons are cut off from the congregation of the Lord. And it is true that the Eccleſiaſtical authority is a power of juriſdiction, juſt as Excommunication is a ſword. But ſo is the word of God, *ſharper then a two edged ſword*; and ſo is a ſevere reproof, it cuts to the bone. *Nec cenſorium ſtylum, cujus mucronem multis remediis majores noſtri retuderunt, aque poſthac atque illum gladium Dictatorium pertimeſcamus*, ſaid *Cicero.* The Cenſors tongue was a ſword, but our Anceſtors ſometimes did not feel it ſmart; and we fear it not ſo much as the ſword of the *Dictators.* But how little there is of proper juriſdiction in Excommunication we can demonſtrate but by too good an argument. For ſuppoſe *Julian* robbing of a Church, ſtriking the Biſhop, diſgracing the religion, doing any thing for which he is *ipſo facto* excommunicate: tell him of the penalty he incurs, cite him before the Biſhop, denounce it in the Church; what have you done to him that ſhall compel him to doe his duty? Suppoſe he will not ſtay from the Church, that he will goe to another, to a ſtrange country, or that he deſpiſes all this. Have you made him afraid? have you troubled him? have you griev'd him? have you done that which ſhall make him doe ſo no more? But *Julian* was about to renounce Chriſtianity, and thinks it all a Fable. Or ſuppoſe leſſe then that: ſuppoſe a man that keeps a concubine, and knowing that he ſins, and yet reſolves not to quit the ſin, he abſtains from the communion and the pub-

Orat. pro Cluentio.

lick

lick ſervice of the Church; if the Biſhop admoniſhes him to leave the partner of his ſin, how if he will not? By what compulſory can the Eccleſiaſtic ſtate enforce him? If you threaten to drive him from the Communion, he hath prevented you; he never comes at it. If from prayers, you doe him a kindneſſe; for he loves them not. If from Sermons, then he will enjoy his luſt without controlment. What can the Church doe in this caſe? But ſuppoſe yet once more, that a violent hand ſhall pull down the whole Epiſcopal order, what ſhall the Church doe then? will ſhe excommunicate the men that doe it? They ſay the order it ſelf is Antichriſtian; and can they fear to be excommunicated by them? And who fears to be excommunicated by the Presbytery that believes them to be a dead hand and can effect nothing? And in the ſumme of affaires, onely the obſtinate and the incorrigible are to be proceeded againſt by that extreme remedy. And to them who need that extreme it is no remedy: for they that need it, care not for it: & what compulſion then can this be? If it be any thing really effective, let it be perſuaded to them that ſhall deſerve it; for it muſt work wholly by opinion, and can affright them onely who are taught to be afraid of it. It can onely doe effort upon them who are willing to be good in the way of the Church: for it is a ſpiritual puniſhment; and therefore operates onely upon the ſpirit, that is upon the will and underſtanding, which can have no coercion: ſo that in effect it compels them who are willing to be compell'd, that is, it does not compel at all, and therefore is but improperly an act of Jurisdiction.

15. For that which the Eccleſiaſtics can doe, is a ſuſpenſion of their own act, not any power over the actions of other men: and therefore is but an uſe of their own liberty, not an exerciſe of jurisdiction. He does the ſame thing in Sacraments as he does in preaching: In both he declares the guilty perſon to be out of the way to heaven, to be obnoxious to the Divine anger, to be a debtor of repentance; and refuſing to baptize an evil Catechumen, or to communicate an ill-living Chriſtian, does but ſay the ſame thing: he ſpeaks in one by ſignes, and in the other he ſignifies by words. If he denies to give him the Holy Communion, he tels him he is not in the ſtate of grace and the Divine favour, he tels him that he hath no communion with Chriſt; and therefore by denying the Symbols ſayes that truth which by his Sermons he publiſhes. All the effect and real event is produc'd by the ſin of the man; and the Miniſter of religion tells him as God's meſſenger what he hath done to himſelf, and what will come upon him from God. This is *judicium, non jurisdictio, a judging, not a jurisdiction*; a judging a man worthy or unworthy; which does not ſuppoſe a ſuperiority of jurisdiction, but equals doe it to their equals, though in this the Clergy hath a ſuperiority, and an authority from God to doe ſo.

16. Adde to this, that the other effects of Excommunication are not any force or impreſſion upon the Delinquent, but are the caution and duty of the Church, or *ſanior pars* of them that are innocent; for it is a command to them to abſtain from the ſociety of the criminal: for to him it is no direct obligation; indirectly it is, as I have already affirm'd and ſhall afterwards diſcourſe.

17. This diſcourſe cannot leſſen the power and authority of the Church; it onely explicates the nature of it, becauſe it is uſeful to many caſes of

conſcience, and does rightly eſtabliſh the foundation of this great meaſure of conſcience, [Eccleſiaſtical laws] and it addes grandeur to it. For it is in the Eccleſiaſtical government as it was in the Judaical before they had a King. They had no King of their own, but God was their King; and he did exerciſe Jurisdiction, and appointed Judges over them, and wrought miracles for their puniſhment or their eſcape reſpectively: and ſo it is in the Church; Chriſt our head keeps the ſpiritual regality and the jurisdiction in his own hands, but ſends us to miniſter it according to his laws; which if we doe, they who are found criminals cannot indeed be ſmitten by us, but they ſhall be ſmitten by God: and therefore Chriſt ſaid the ſame thing to his Miſſionaries as God did to *Samuel*, *They have not rejected thee, but me*, ſaid God; and, *He that deſpiſeth you, deſpiſeth me*, ſaid Chriſt. And now, although Kings have the ſword in their own hand, and can ſmite the diſobedient; yet we cannot: but God will ſmite them that are diſobedient to the Church: and that's worſe for them that feel it, and better for them that are but threatned; for it is true, that by repentance they may eſcape that which is threatned by the Church, which in the Common-wealth they cannot: but theſe that feel it are in a worſe condition; for *it is a fearfull thing to fall into the hands of the living God*; and, *who can dwell with the Everlaſting burnings? For our God is a conſuming fire.*

Rule II.

The Church hath power to make laws and to give Commands obliging the conſcience, that is, tying the ſubjects to obedience under the penalty of committing ſin, or of incurring the Divine diſpleaſure.

1. BY the Church it is certain I muſt firſt mean the Church Catholick, or all the Governours of the Chriſtian aſſemblies in the world: becauſe if it be in a part it is in the whole; and if it be neither in a part nor in the whole, it is no where. But yet becauſe the whole Catholick Church, that is, all the Governours of Churches (for if we ſpeak of the Church making laws, we muſt mean the governing part of the Church) did never meet ſince the days of the Apoſtles, who being few and united and abſolute and ſupreme could then doe what could never be done ſince: it is neceſſary for the reducing this Rule to practiſe, that the legiſlation and the power of commanding be ſubjected in ſome more particular ſubject; and therefore I ſhall inſtance in the leaſt. By the Church, I mean every particular Church joyn'd to the head of Union; and by the particular Church, I mean the Angel of that Church, *the Biſhop*; according to that ſaying of S. *Cyprian*, *Scire debes Epiſcopum in Eccleſia eſſe, & Eccleſiam in Epiſcopo*, *The Biſhop is in the Church, and the Church in the Biſhop:* that is, he is in the Church as the head is part of the body, and the Church is in him as in their repreſentative, and all their power is miniſtred by his hand, and their intereſt promoted by him; and he is the hand of God and the hand of the people; this lifted up, and that let down; this in the miniſtery of prayers, and that in the miniſtery

Epiſt. ad Florent. Pupian. lib. 4. ep. 9.

niſtery of bleſſings. And therefore S. *Chryſoſtome* expounding thoſe words of Chriſt, *Tell it unto the Church*, ſays that they mean, tell it to the Biſhop of the Church, who is to miniſter food and Diſcipline to the congregation. Homil. 61. in Matth.

2. Now all the power of commanding and making Eccleſiaſtical laws, that is, laws of Religion, is wholly in the Paſtors and Biſhops in the ſupreme order of Eccleſiaſtics. If there be two orders of Divine inſtitution, it is certain that one is the ſuperior; and therefore one onely is to rule in eminency, and the other can rule but in minority and ſubſtitution: and that which is appointed to rule is the ſuperior. Now the caſe then is clear as to the preſent purpoſe: the Presbyters were under Biſhops, and might be accuſed before them and rebuk'd by them; we ſee it plain in the caſe of *Timothy* and *Titus*, to whom S. *Paul* gave rules of Court, and meaſures of taking cogniſance of cauſes brought before them. There was plainly the judging order and the judged: The Elders or Presbyters were judged; over them were Overſeers plac'd. *Par in parem poteſtatem non habet.* Since therefore a judicatory was plac'd in the Church, though it was a ſpiritual onely and without temporal coercion, yet it had a juſt authority; and therefore muſt ſuppoſe a diſtinction in the Clergy of ſuperior and inferior. Now becauſe there can be no union political without government, and the government which was appointed was that of the ἄνδρες ἡγεμόνες *the ruling Clergy*, it follows that the Biſhop being the head of ſpiritual union in the firſt inſtitution of the Church, every ſociety of Chriſtians is reckoned one by the unity of the Biſhop; and therefore that ſociety of a Biſhop and his pariſh is the leaſt indeed, but it is a Chriſtian Commonwealth. Now the practice Apoſtolical and Primitive adminiſtring this power by one and one in every Church, where there were many Presbyters, it muſt be evident that he who was ſuperior to the Presbyters was to rule in every congregation; and becauſe there was none ſuperior to him by Divine or Apoſtolical appointment, all the legiſlative or commanding power in the Church is founded in the Epiſcopal order, and therefore that one Biſhop hath in his own charge a legiſlative or power of command; and therefore much more when many Biſhops meet together. A Dioceſe is the leaſt circuit of government, but it is an intire body ſubject to diſtinct commands; that is, every Dioceſe hath one ſet over them in the Lord, to whom the people are by the commands of Jeſus Chriſt tied to give obedience.

3. Whether the Dioceſe be little or great, allowed or diſallowed, in City or in Country, divided into pariſhes or not divided, under Metropolitans or not under, of many Churches or but one, it matters not: where there is a Biſhop and a congregation there is a Dioceſe, and there is a power of commanding and a neceſſity of obeying, *intra limites diſciplinæ*, within that pale in which they have warranty and power to govern and to give commandements. As for pariſhes in the late ſenſe of the word, that is, the charge of a ſingle Presbyter, it is no body politic of Apoſtolical or Divine appointment: for the Presbyters were called *in partem ſollicitudinis* into the help of the Miniſtery; but they had no cure of ſouls, ſave onely by delegation & ſpecial and temporary appointment, for ſome whole ages in the Church: and therefore the Governing and the Commanding Authority cannot be extended to Pariſhes and to their Curates which are of late

date, and received no power from Chriſt but that of Miniſtery, which is alſo conveyed by the Biſhops hands. But then becauſe above the Biſhop there is no appointment in the whole religion, it is neceſſary that the legiſlative be eſtabliſhed in him: if we goe higher we can never come to a ſociety of Apoſtolical or Divine inſtitution in the Church, becauſe between the whole Catholick Church, either in diffuſion or repreſentation, and a ſingle Dioceſe, all the intermedial unions, as of Metropolitans, Primates, Patriarchs, Councils Provincial or Oecumenical, are by conſent and poſitive and humane inſtitution, but they directly eſtabiſh no Divine Government. This onely is properly ſuch. And though this can ſuffer alteration as to the adminiſtration of it, yet the proper ſeat of the authority is the Biſhop, by virtue of his order. Whether the Biſhop of *Rome* receiv'd the power into himſelf alone, and ſo conveyes it to all other Biſhops, is not material to our preſent inquiry; for that is a queſtion of the manner of receiving it, not of the power when it is receiv'd. I ſhall in order to other purpoſes diſcover the unreaſonableneſſe of that fond pretence and novelty. But that which I ſay is, that thoſe perſons who by Chriſts appointment *to* or *by* the Apoſtles were authoris'd to govern the Church, are the heads of Chriſtian ſocieties, and every ſuch ſociety is a diſtinct government; and that this cannot be the diviſion of pariſhes, becauſe that diviſion was later then the authority: and though this be true alſo of Dioceſes as they are now divided, yet that diviſion being but accidental to the charge, and the charge being an appointed relation, that which is accidental and ſuperinduc'd cannot prejudice the nature and inſtitution of it, but that a Biſhop and his charge more or leſſe is an intire ſociety or Common-wealth, as much as the thing can be; that is, according to the nature and capacity of the ſubject matter, it is an intire government, and Prelate and people make the parts of the integral conſtitution.

4. To the verification therefore of the power thus ſubjected, all thoſe titles of eminency and ſuperior office recorded in Scripture doe aptly miniſter: as that they are called Paſtors, and Rulers, and *Præpoſiti*, and ἐπίσκοποι *Biſhops* or *Overſeers* of the Church: He that hears them, hears Chriſt, who hath ſent them as himſelf was ſent. Upon the account of theſe the firſt rulers of Churches in Scripture did give laws to their people, and threatned the diſobedient not onely by the force of their extraordinary power, but by the effects of their ordinary miniſtery. The particular inſtances of command I ſhall enumerate when I give account in what things they have power to make laws; but theſe words of power were ſufficient warrant, and were like ſeals to their Commiſſions and Monitors of their duty. But ſo the Rulers of the Church did practiſe their power, and taught the neceſſity of obedience.

5. To this purpoſe are thoſe words of S. *Clement* to S. *James* the Bro-
1 Epiſt. Clem. 1. ad fin. ther of our Lord; *Theſe things, moſt dear Brother, I have received from the mouth of holy* Peter, *who gave the commands, and I have endeavour'd to ſhew them to thee, that thou mayeſt command them all to be kept inviolate, becauſe Eccleſiaſtical affaires ought not to be done careleſly but with diligence. Therefore let no man think that without danger he can neglect theſe precepts, or diſſemble them; quia in judicio Dei ignis æterni tormenta ſuſtinebit qui Eccleſiaſtica decreta neglexerit, becauſe in the judgment of God he ſhall ſuffer the torments of an Eternal fire who ſhall neglect the decrees of the Church. But he*

he that ſhall hear thee as the Miniſter of Chriſt commanded, ſhall receive glory: But he that ſhall not hear thee, or rather the Lord ſpeaking by thee, ſhall receive to himſelf damnation.

6. S. *Ignatius* is very frequent and expreſſe in this particular. *Be ſubject to the Biſhop as to the Lord. For he watches for your ſouls as he that muſt give an account to God. For it is neceſſary that you doe nothing without the Biſhop. For he that is diſobedient to Biſhops, will be altogether without God, impious, and a deſpiſer of Chriſt, and a diſparager of his ordinance.* And again, *It is fit that you obey your Biſhop, and in nothing to contradict him. For he that does, deſpiſes not him that is viſible, but in him deſpiſes the inviſible God, who cannot be deſpis'd of any one. For the Biſhop hath not his promotion from men, but from God.* Epiſt. ad Tralli an. Epiſt. ad Magnel.

7. *Tertullian* ſpeaking of the power and judicatory of the Church, ſaith, *Ibidem etiam exhortationes, caſtigationes & cenſura Divina; nam & judicatur magno cum pondere, ut apud certos de Dei conſpectu, There are exhortations, chaſtiſements and a Divine cenſure; for the judgment* of the Church *is with great weight and efficacy, becauſe it is amongſt them who are certain that they ſhall appear before God: and it is the greateſt forerunning of the great Judgment, if any one ſins ſo that he be baniſhed from the communion of prayers, aſſemblies and all holy entercourſe.* in Apologet.

8. To which if we adde the words of S. *Cyprian*, we ſhall find not onely the power and authority warranted, but the ſubject of the power declar'd to be the Biſhop. *Since there are ſuch and ſo great and many other examples and precedents by which the Authority of the Biſhop and his power is eſtabliſhed by Divine ordinance, what ſort of men doe you ſuppoſe them to be who, being enemies of Biſhops and rebels againſt the Catholic Church, are not affrighted with the threatning of God admoniſhing them, nor yet with the revenge of the future judgment? For hereſies have ariſen and ſchiſms commenc'd from no other cauſe then this, that men doe not obey* [the Biſhop] *the Prieſt of God: neither doe they conſider that there is in the Church for a time a Judge in the ſtead of Chriſt, to whom if all the Brethren would obey according to the Commands of God, no man would move any thing againſt a college of Biſhops; no man would after the Divine judgment is paſſ'd, after the ſuffrage of the people, and the judgment of the Biſhops his aſſeſſors, make himſelf a judge not of the Biſhop, but indeed of God himſelf; no man would divide the Unity of the Church; no man by a ſelf-pleaſure and pride would make a new hereſy apart by himſelf.* Ep. ad Cornel. Papam lib. 1. ep. 5.

9. I onely adde the teſtimony of S. *Hierom*, it being in a clear caſe as to the thing it ſelf; and the difficulty being onely in the meaſures, the manner and inſtances of obedience. *Epiſcopus veſter cui Eccleſiæ commiſſum eſt regimen*, &c. *Your Biſhop to whom the government of the Church is committed, whom God hath plac'd as the ſurveyor of his vineyard, the ſhepherd of the ſheep, the director of the flock, the leader of the people both in the city and the country in which ye live, let him nouriſh you with a ſingular care, and feed you with the meat of holy doctrine, and in the preſence of God take eſpecial care of your ſouls: let all men devoutly and with an even mind as to God obey him to whom all the city is committed.* in Regul. Monachor. cap. 17.

But becauſe I have given a larger account of this duty in general, in * a Diſcourſe on purpoſe, I ſhall more properly conſider in what particular caſes the conſcience is, or is not, bound to obey the Church-governours.

* Epiſcopacy aſſerted Sect. 34, 35.

Rule III.

The Church hath power to make laws in all things of neceſſary duty, by a direct power and a Divine authority.

1. SAint *Ignatius* diſcourſing of the Biſhops power, commands ſubjection to him in ſo large and comprehenſive termes, that they ſeem to put an end to all further inquiries in this rule of conſcience, by making all inquiries to be uſeleſſe; becauſe an obedience univerſal is due. *Neceſſe eſt ut quicquid facitis, nihil ſine Epiſcopo tentetis, & in nullo illi refragari:* And again, *Nec quicquam videatur vobis conſentaneum quod ſit præter illius judicium; quod enim tale eſt, Deo inimicum eſt. It is neceſſary that whatſoever ye doe, ye doe nothing without the Biſhop; that ye be obedient to him, and be refractary againſt him in nothing: Neither let any thing pleaſe you that is beſides his judgment; for whatſoever is ſo is an enemy to God.* The ſame alſo he repeats in other places, and gives it in command to other Churches. But this is too general to guide any man, and therefore of it ſelf requires a limit: and therefore himſelf does explicate it in his letter to the Church of *Smyrna. Sine Epiſcopo nemo quicquam faciat eorum quæ ad Eccleſiam ſpectant, Without the Biſhop let no man doe any thing of that which belongs to the Church*; that is, whatſoever is intruſted to the Biſhops charge, the conduct of ſouls, the duties of religion, the commandements of God, the Sacraments of the religion, the Orders of the Divine inſtitution, the interior actions of grace, and the external which are of neceſſary miniſtery and relation to them, are under the Diſcipline and legiſlation of the Church. For in theſe things onely his charge, and therefore in theſe things onely his authority does lie.

ad Trallian. ad Magneſ. Epiſt. ad Epheſ.

2. Thus the Biſhop hath power to command his ſubject or pariſhioner to put away his concubine; and if he does not, he not onely ſins by uncleanneſſe, but by diſobedience too. For the authority of the Church being ſpiritual, it hath power over the ſpirit, and introduces guilt upon the ſoul if it be diſobeyed. So that it is but folly and ignorance to think the Biſhop hath no power, becauſe he is to command onely in thoſe things where God hath commanded already. For though he is God's Miniſter and commands not by his own will, but by God's, yet he hath the authority of God given to him to doe that: and beſides that it is not reaſonable to think that God would give the Church-Rulers his authority for trifling and needleſſe purpoſes; it is alſo evident in the thing it ſelf, that it is of great effect, becauſe even in theſe things he is the voice of God, and judges in the place of God, and affrights ſinners with the accents of his diſpleaſure, and upon this account brings a burden upon the diſobedient which was not brought upon him before the command and ſentence of the Church.

What-

3. Whatſoever therefore the Biſhop commands us as from God, in that his power and legiſlation is properly exerciſed: and it is abſolutely to be obeyed without any other condition or reſerve, but that it be indeed the will and commandement of God. So S. *Bernard*, *Quicquid vice Dei prælatus homo præcipit, quod non ſit tamen certum diſplicere Deo, haud ſecus omnino recipiendum eſt ac ſi præcipiat ipſe Deus, Whatſoever the Prelate in the ſtead of God commands, provided you are certain it does not diſpleaſe God, it muſt be receiv'd as if God himſelf commanded it. For what difference is it whether God by himſelf, or by men his Miniſters, or by his miniſtring Angels make his will and pleaſure known unto us?* Where it is obſervable that he does not give leave to diſobey if we queſtion whether it be God's will or no; for if it be a queſtion, the preſumption is for the authority impoſing it: and in that caſe, though it be a doubt in theory, yet that muſt not hinder the practical obedience; becauſe it is as certain that our lawfull ſuperior hath power to command us to obey when we are not certain of the thing, as it is certain that it is a ſin if we doe it in a doubting conſcience by our own authority. For *the authority of God in the hand of a Prelate* is warrant enough to determine us when we know nothing to the contrary, though *our own will is not*. If we have a doubting conſcience, we have nothing (while the doubt remains) to oppoſe againſt it but our will, and that is not ſufficient, but a Divine authority is. Now although in the preſent caſe it does not work to the clearing of the material doubt, yet it does operate to the clearing of the duty: and therefore S. *Bernard* ſaid well [*quod non ſit tamen certum diſplicere Deo*] unleſſe you are ſure, that is, be fully perſuaded, you diſpleaſe God in obeying the Biſhop, it is certain you doe diſpleaſe God by diſobeying him. lib. de Præcepto & diſpenſatione

4. For it is a part of our obedience not to judge his ſentence, that is, not to give judgment againſt him in a queſtion of difficulty, but to ſtand to his ſentence. *Credas tibi ſalutare quicquid ille præceperit; nec de Majorum ſententia judices, cujus officii eſt obedire & implere quæ juſſa ſunt*, ſaid S. *Hierom* in a like caſe. It is your part to obey, and to doe what is commanded, and not to judge your judges, but to believe all that to be good which your Prelate commands you; meaning when his command is inſtanc'd in the matter of the Divine Commandement. In things that are plain and eaſy, every man can be a Judge, becauſe indeed their needs none, for there is no queſtion: but in things of difficulty, and where evidently God is not diſhonour'd, it is very much our duty to obey the Church. ad Ruſticum Monach.

5. Thus the Church hath power to command us to be devout in our prayers, to be charitable to our Brother, to forgive our enemy, to be heartily reconcil'd to him, to inſtruct the ignorant, to follow holineſſe, and to doe juſtice, and to be at peace with all men; and he that obeys not, does walk diſorderly, and may be us'd accordingly with all the power the Church hath intruſted to her, according to the merit of the cauſe: but it is certain he ſins with a double iniquity that refuſes Gods Commandement and the precept of his ſpiritual ſuperior; for in theſe things every Miniſter can exhort, but the Biſhop can command, that is, he binds the Commandement of God by a new obligation and under a diſtinct ſin, the ſin of diſobedience.

Rule

Rule IV.

The Church hath power to make laws in ſuch things which are helps and apt miniſteries and advantages of neceſſary duty.

1. This Rule is expreſſely taught by S. *Baſil : Neceſſariò ea nos in memoriam debemus redigere quæ dicta ſunt ab Apoſtolo, Prophetias nolite ſpernere.... Ex his autem intelligitur quod ſi quid nobis imperatum eſt quod idem ſit cum mandato Domini, aut adjuvet, illud tanquam voluntas Dei ſtudioſius diligentiusque à nobis ſuſcipi debet, We muſt remember what the Apoſtle ſaid, Deſpiſe not propheſyings. But if any thing be commanded us which is all one with the command of God, or may help it, it ought to be undertaken by us with diligence and ſtudy as if it were the will of God.* Thus if our Biſhop in his precepts and ſermons of chaſtity command that the women goe not to the publick ſpectacles, where are repreſented ſuch things which would make *Cato* bluſh, and *Tuccia* have looſer thoughts, they are bound in Conſcience to abſtain from thoſe impure ſocieties; and not onely from the luſt, but from the danger. For in vain is it that God ſhould intruſt the ſouls of the people to ſpiritual Rulers, and give them wiſdome to doe it, and commandment to doe it with diligence, and gifts of the Holy Spirit to enable them to doe it with advantage, if the people were not tied in duty to decline thoſe places and cauſes where and whence they doe uſually periſh.

In regul. brevior. cap. 14.

2. And in purſuance of the Epiſcopal authority in the like inſtances it was that S. *Chryſoſtom* held his paſtoral ſtaffe over the diſobedient: for the Church had declar'd that in the holy time of Lent the people ſhould live auſterely, and therefore he told them at that time eſpecially that they ſhould not goe to the publick ſhews and theatres; and to the diſobedient he addes this threatning, *Sciant omnes his criminibus obnoxii, ſi poſt hanc noſtram admonitionem in ea negligentia manſerint, non toleraturos nos, ſed legibus Eccleſiaſticis uſuros, & magnâ auſteritate doctturos ne talia poſthac negligant, néve tanto contemptu Divina audiant eloquia, Let all that are guilty of ſuch crimes know that if after this admonition they perſiſt in this neglect, we will not ſuffer it, but uſe the laws of the Church againſt them, and ſhall teach them with great auſterity that hereafter they doe not hear the Divine Sermons with ſo great contempt.*

Homil. 6. in Geneſ.

3. Upon the ſame account the Church in her Sermons of repentance does uſually, and hath authority to enjoyn actions of internal and external ſignifications and miniſteries of repentance. In the Primitive Church the Biſhops did indict faſting-dayes, and publick Letanies and proceſſions or ſolemn ſupplications and prayers to be us'd in the times of publick danger and neceſſity. This we find in *Tertullian, Epiſcopi univerſæ plebi mandare jejunia aſſolent, non dico de induſtria ſtipium conferendarum, ut veſtræ capturæ eſt, ſed interdum & ex aliqua ſollicitudinis Eccleſiaſticæ cauſa,* The Biſhops are wont to command faſting-dayes to all the people, not for ſecular ends, but for

Lib. de jejunio in pſychicos

for Eccleſiaſtical neceſſity and advantage. For when God hath eſtabliſhed an office and miniſtery, it is certain he made it ſufficient to acquire all the ends of it's deſignation: ſince therefore the government even of internal actions and a body or ſociety of men muſt ſuppoſe external acts, miniſteries, circumſtances and ſignifications, no man can from without govern that which is within, unleſſe he have power to govern that without which the internal act cannot be done in publick, in union and ſociety.

4. And here comes in that Rule of the law, *The Acceſſory follows the nature of the Principal*; which hath been ſo infinitely miſtaken and abus'd by the pretences of *Romaniſts* and *Preſbytery* for the eſtabliſhing an Empire Eccleſiaſtical in things belonging to themſelves, not to God. For the ſoul being the principal and the body it's inſtrument, they hence argue that they to whom the ſouls are committed, have therefore a right to govern the body, becauſe it is acceſſory to the ſoul; and if the body, then alſo the acceſſories of the body, actions, circumſtances, time, wealth, lands and houſes, in order to the ſpiritual good of the ſoul: which propoſition becauſe it is intolerable, it can never be the product of Truth, and therefore muſt be deriv'd from a falſe underſtanding of this true rule of the lawyers. But becauſe in it's true meaning it ſerves to conduct many, and particularly this rule of Conſcience, it is neceſſary that we know the true meaning of it.

The Rule [*The Acceſſory followes the nature of the Principal*] explicated.

5. Therefore for the underſtanding of it ſo far as can be in order to our deſign, it is to be inquir'd, how we ſhall know which is the principal and which is the acceſſory? 2. In what ſenſe the acceſſory muſt follow the nature of the principal.

6. 1. That which is principal to one purpoſe, is but the acceſſory to another ſometimes. If *Titius* hires my land and builds a houſe upon it, the houſe is but the acceſſory, becauſe it came after my land was in poſſeſſion. But if *Titius* buyes my houſe ſtanding upon my own land, he buyes the land too; for the land is but the acceſſory, and the houſe is the principal: becauſe the houſe being the purchaſe, it cannot be at all but upon a foundation, and therefore the ground is the acceſſory, and after the houſe in the intention of the buyer. *Villa fundum quarat*, it is ſometimes true; but ordinarily, *Fundus quærit villam.*

7. 2. That which is of greateſt value is not always the principal, but ſometimes is the acceſſory. The picture of *Apollo* upon a laurel board is much more precious then the wood, and yet if *Apelles* ſhould take *Lucian's* wood and draw the picture, *Lucian* will make bold with the board, and conſequently carry away the picture. A jewel ſet in gold is much better then the gold, but yet the gold is the principal, becauſe it was put there to illuſtrate and to adorn the gold; according to that of *Ulpian*, *Semper cum quærimus quid cui cedat, illud ſpectamus, quid cujus rei ornandæ cauſâ adhibetur.* And therefore if *Caius* dying leave me in legacy his black-cloth ſuit, I ſhall alſo receive the diamond-buttons that adorn it: becauſe theſe were

l. cum aurum. 19. §. pervenimus ff. de aur. & argent. leg.

plac'd

plac'd there to adorn it; and therefore are the acceſſory, becauſe they are *uſu minores*, and wholly ſet there for the miniſtery of the other. *Quod adhibetur alterius rei cauſâ*; that is principal for whoſe ſake the other was ſent or put. And therefore it is no good argument to conclude that the body is the acceſſory, becauſe the ſoul is more noble. *Cedent gemmæ phialis vel lancibus incluſæ auro argentóve.* The ſoul is indeed a jewel ſet in gold; but is therefore an acceſſory to the body in ſome caſes. He that buyes the body of a ſlave, hath right to all the miniſteries of the ſoul; and the man is bound to ſerve his Maſter with a ready mind and a good will; and the ſoul is a παρακολούθημα of the body. The body is firſt, and the ſoul comes afterwards to give it life and motion.

8. 3. When two ſubſtances concurre to the conſtitution or integrity of a third, one is not the acceſſory to the other. The eye is not the acceſſory to the head, nor the foot to the leg, nor the hand to the arme; for that onely is an acceſſory, *quod alterius rei cauſâ adhibetur aut accedit*: If it comes in accidentally and be wholly for the others ſake, then it is an acceſſory. Thus order and decency and circumſtances of time and place are for the miniſteries and ornament of religion, and therefore are acceſſories. The outward act is the leſſe principal and an acceſſory to the inward, for to the inward it wholly miniſters; and conſequently he that diſpoſes of one may alſo govern the other, becauſe the leſſe principal is included in the more, and the leſſe and the more have not two adminiſtrations, becauſe they have but one uſe. But the ſoul and the body are two diſtinct ſubſtances of differing miniſtrations, acting to ſeveral and ſometimes to contrary purpoſes; they are parts of the ſame man, a better and a worſe, but not a principal and acceſſory, unleſſe it be by accident and in ſome uſes and to ſome purpoſes; and then ſometimes one ſometimes the other is the principal. Concerning which the Rule is this.

9. 4. Thoſe things which of themſelves are not, but by accident may be made acceſſories to a principal, are then to be eſteem'd to be ſo when they actually and wholly are joyn'd in uſe to the principal, and ſerve the end of the principal, but have none of their own. Thus when the ſoul prays paſſionately, if the lips move without a deliberate act of underſtanding, but obeying the fancy, the body in that caſe is purely the acceſſory. I ſay in that caſe: for if the body receive a command to other purpoſes, as to attend upon the Prince at the ſame time when the ſoul prays, in that caſe they are both principals; and neither of them is acceſſory to the other. And therefore although it will follow that when the body miniſters to the action of the ſoul wholly, and hath no diſtinct work & office of its own in that action, he that commands the ſoul, can alſo command the body; for they are in that miniſtery but as one: yet it will not follow that when the body is not the acceſſory, is not conjunct in Miniſtery, but does or can act diſtinctly and to other purpoſes, he that is of proper authority to command one hath authority alſo of the other. And the reaſon of this will help well to explicate this whole inquiry. For

10. 5. He that pretends to a power over the acceſſory becauſe he rules the principal, claims his power wholly for its relation to the principal, and therefore it can be extended no further then the relation: but if that relative have alſo an abſolute and irreſpective nature, operation or deſigne, it cannot

cannot be governed in any thing of this, because of it's relative nature and conjunction in the other; for there it is not accessory. For it is the nature of the συνεκτικὸν αἴτιον· ὃ παρόντος μὲν τὸ ἀποτέλεσμα, καὶ ἀιρομένου αἴρεται, *The conjunct cause or reason, when it is there, the work will follow: but when it is away, there will be no event*, says the Philosopher.

11. 6. It is not enough to make a thing to be accessory, that it is design'd for the use and ministery of another that is principal; but it must be actually applied: for till then it is but a potential accessory, which gives no right, and changes no nature, and produces no effect. Bridles and saddles are made to be us'd with horses: but he that buyes all the horses in a faire cannot claim all the saddles and bridles which are in the same faire to be sold; because they are not yet become the accessories, but are onely design'd to be so. It is intended that the body should minister to the soul in matters of religion; but because it ministers also to other actions of the soul, he that rules the soul does not by consequence rule the body, unless it be actually applied, and be conjunct with the soul in the ministeries of religion.

12. 2. These may be sufficient to declare so much of the nature of *accessories* as is of use in our present questions. The next inquiry is, what is the meaning of these words, [The accessory [*follows the nature*] of the principal.] For it cannot be meant that whatsoever is said of one may be said of the other; or whatsoever may be done to one, may be done to the other. The Rulers of souls have power to excommunicate or to cut them off from the body of the Church, which is the greatest spiritual power, and is after it's own manner a spiritual death. Now suppose the body be an accessory to the soul, it will not follow that he that can cut the soul off from the Church, can cut the body also off from the Commonwealth. But the meaning is, that *duplici & diverso jure censeri non debent*, they who are joyn'd in one action are to have one judgment, though according to their respective measures. If the soul does well, so does the body ministring to the soul. If it be good to pray, it is good to appoint times and places to pray in, because without time and place you cannot pray: If time and place be contingent and irregular, so are our prayers; if our prayers be solemn and fixt, so must they. And thus also it is in matter of Government. If the Bishop is to guide the devotion of the soul, he can also give rules to the body in all that which it ministers to that action of the soul; and when they two make one compleat action by way of principal and accessory, they are the same one intire subject of government. But this is to be extended no further. This passes not to the distinct actions or ministeries of the body; but is confin'd to that in which it is, and so long as it is one agent with the soul: neither can it passe to warrant any other impression upon the body, but that it be commanded and conducted in the pursuit of that action.

13. And after all, though the Rule be thus warily conducted to keep it from running into error, yet neither thus is it always true. *Cum principalis causa non consistat, plerumque ne ea quidem quæ sequuntur locum habent*, says the law. It is sometimes so, sometimes not. Money is accessory to the man, and cloths to the body: but he that hath the man in cure is not the *Curator bonorum*; and the Physician that gives physic to the body, and

ff. de regul. Juris l. 178. & l. 129. ff. eod.

conducts the regiment of health, is not Maſter of his wardrobe: and the Epigram derided *Herod* the Empiric,

Clinicus Herodes trullam ſubduxerat ægro:
Deprenſus dixit, Stulte, quid ergo bibis?

becauſe when he came to take away his patients ſickneſſe, he took away his plate. If the principal act be confirm'd by an acceſſory oath, though the principal act prove null and invalid in law, yet the man is tied by the remaining oath. A man cannot offer to God an indifferent action or thing. And therefore he that promiſes to God to walk three turns every day, hath done nothing; the act is null, and he is not obliged to pay that to God: but if an oath did ſupervene, that muſt ſtand, * though the principal of it ſelf be null; becauſe every oath that can without ſin be kept, muſt ſtand. The alienation of a Minors lands is reſcinded by law, yet the obligation and caution of the Tutor for the acceſſory verification of the principal ſale will ſtand: becauſe there is a reaſon that ſeparates the acceſſory from the principal, and the law intending to reſcind the tranſlation of the Dominion, not to reſcind the contract, leaves the principal looſe, and the acceſſory bound. This is alſo thus in actions principal and acceſſory, which the law cals *perſonales & hypothecarias*. *Mævius* dies and divides his eſtate between *Lucius* and *Lucullus*; but he was indebted 20 talents, and for caution had ingag'd ſome jewels. *Lucius* payes his five talents, and *Lucullus* payes foure of the other: the perſonal action of *Lucius* is diſſolv'd, but the acceſſory is not; for till *Lucullus* his perſonal or principal be taken off, the acceſſory and cautionary remaines upon them both: and this alſo hath a particular reaſon, and ſo have all thoſe caſes in which this Rule failes.

* c. cum contingat. extr. de jure jur.

14. From whence I inferre, that this thing is ſometimes reaſonable, and ſometimes unreaſonable, but it is never neceſſary but in one caſe; and that is when the acceſſory is neceſſary and inſeparable, either by reaſon of a natural or poſitive conjunction. For ſome things are acceſſory by uſe and cuſtomes, ſome by laws and commandements, ſome by the nature of the thing. Now of the firſt two ſorts the meaſures are contingent and alterable: the laws ſometimes declare a thing to be acceſſory, and at other times it is no ſo: and if by uſe or contract or cuſtome a thing be acceſſory, it ceaſes to be ſo if the acceſſory be particularly excepted. As if I buy a houſe, it is by cuſtome concluded that I intend the garden that is joyn'd to it; and he that ſels a horſe, ſels his bridle: but if the garden be reſerv'd, & the bridle be excepted, the rule is then of no uſe.

15. Now to apply this to the preſent inquiries. 1. Becauſe the body is not in the nature of the thing an inſeparable, neceſſary acceſſory to the ſoul in ſpiritual actions and miniſteries, but the ſoul can pray alone, and be charitable alone, and love God alone, and the body hath actions, and intentions, and intereſts which mingle not with that which the ſpiritual rulers are to govern; therefore it cannot be inferr'd that the body is ſubject in all things to them who govern ſouls.

16. But 2. It does follow and may by force of this rule be inferr'd that they who are to govern the religion and ſpiritual actions of the ſoul, can alſo govern the actions of the body which miniſter immediately and neceſſarily to the neceſſary actions of the ſoul: & therefore becauſe it is a duty that we communicate in the Communion of Saints, when that duty is actually and

and of neceſſity to be done, the Biſhop hath power to command the bodies of men to be preſent in Chriſtian aſſemblies, according to the precept of the Apoſtle, *Neglect not the aſſembling of your ſelves together.*

17. And yet further, to come home to the preſent Rule, there are ſeveral degrees of neceſſitie, and ſeveral reaſons of it. Some things are neceſſary for life, and ſome for health. Some are neceſſary for ſingle Chriſtians, ſome things are neceſſary for ſocieties; ſome things are neceſſary in private, and ſome in publick; ſome things are for order, and ſome for preciſe duty; ſome things are abſolutely, and ſome are but reſpectively and in order to certain ends neceſſary. The body is an acceſſory to the ſoul, *atque eodem jure cenſendum, to be judg'd by the ſame laws*, govern'd by the ſame perſons, ſubject to the ſame ſentence and conduct, not onely in things of abſolute neceſſity, but even in things of great advantage; not onely in private neceſſity, which is always indiſpenſable, but even in publick neceſſities of the Church, in which there is greater latitude and more liberty: and the reaſon is, becauſe even theſe leſſer degrees of neceſſity are requir'd of us by Divine Commandement; and it is not onely commanded to us to doe that which is lawful, but that alſo *which is of good report*; not onely that we glorify God, but that our Brethren be edified. And in proportion to this, it is requir'd of the guides of ſouls that *they give* good *account of* them, but it is requir'd of us alſo that we ſo comport our ſelves that *they may doe it with joy:* which cannot be ſuppos'd, if their power be kept within the bounds of a ſimply and indiſpenſably neceſſary internal religion; it cannot be done without proſperous circumſtances and advantages of religion: in theſe therefore if ſpiritual guides have not power to give commands, they have not all that is neceſſary by all the kinds of neceſſity which God made. Hebr. 13. 17.

18. But this Rule we ſee verified by authentic precedents. For the Apoſtles at *Jeruſalem* indeed thought fit to impoſe nothing but thoſe *neceſſary things* which are ſpecified in their decretal: but S. *Paul* us'd alſo this authority by the meaſures of the preſent Rule, and commanded beyond the limits of abſolute neceſſity, even that which he judg'd convenient; and verifies his authority in his Epiſtle to *Philemon, I might be much bold in Chriſt to enjoyn thee that which is convenient:* and this he actually did to the *Corinthian* Church, commanding that *all things ſhould be done decently and in order.* Philem. 8. verſ.

19. Now although it be true that in theſe things the Apoſtle had ſome advantages which the Biſhops in ſucceſſion have not; he had an infallible ſpirit, and what he call'd convenient was ſo indeed; and he had converted *Philemon*, he was his Father in Chriſt, and he was one of the pillars upon which Chriſt built the Church, and he was to lay the foundation for an everlaſting building: yet becauſe the inſtance to the *Corinthian* Church was ſuch which was of a perpetual reaſon, and it would be for ever neceſſary that things ſhould be done in the Church decently and in order, and the queſtion of decency would for ever have variety and flux, ſucceſſion and a relative uncertainty, it was neceſſary that of this there ſhould be perpetual Judges and perpetual Dictators: and theſe can be no other but the Rulers of the Church, who have the ſame power as the Apoſtles had in this, though not ſo many advantages of power. When the Biſhops judge truly concerning neceſſity, & ſuch decencies and reaſonableneſſes as are next to neceſſity,

ceſſity, they can enjoyn them, onely they cannot judge ſo ſurely; and therefore although there may be more cauſes of laying aſide their commands, yet it is never lawfull without cauſe.

20. But this is not to be extended to ſuch *decencies* as are onely ornament, but is to be limited to ſuch as onely reſcue from confuſion: the reaſon is, becauſe the Prelates and ſpiritual guides cannot doe their duty, unleſſe things be ſo orderly that there be no confuſion, much leſſe can they doe it with joy; and ſo far their power does extend: for although that is not required of the governours but of the people, that the Rulers office be done with joy; yet becauſe it is required of the people, they ſin if they hinder it; therefore the Rulers have power to enjoyn it. But if it can goe beyond this limit, then it can have no natural limit, but may extend to ſumptuouſneſſe, to ornaments of Churches, to rich utenſils, to ſplendor, to Majeſty; for all that is decent enough, and in ſome circumſtances very fit. But becauſe this is too ſubject to abuſe, and gives a ſecular power into the hands of Biſhops, and an authority over mens eſtates and fortunes, and is not neceſſary for ſouls, and no part of ſpiritual government, it is more then Chriſt gave to his Miniſters.

21. This alſo is to be added: that becauſe this power is deriv'd to ſpiritual Rulers upon the account of reaſon and experience of things and the duty of the people, that the Rulers ſhould be enabled to give an account of their charges with joy, therefore it is onely left to the people to doe it or not, under the pain of a ſin; but they are not to incurre ſpiritual cenſures upon the ſtock of non-compliance in things not ſimply neceſſary or of eſſential duty. For to compel them to advantages will bring but little joy to the Ruler: he muſt ſecure the main duty whether they will or no; that himſelf is to look to, and therefore to uſe all the means God hath put into his hand; and for that he muſt look for his joy when he comes to give up his account: but that he himſelf ſhould doe his duty with joy, that is with advantages, with eaſe, with comfort, being a duty wholly incumbent on the people and for their profit, if they will not comply, they ſin; and *it is not profitable for them*, ſaith the Apoſtle, that is, they looſe by it; but to this they are at no hand to be conſtrain'd, for that will deſtroy his joy as much as the letting it alone.

Hebr. 13. 17.

22. Beyond this the Biſhop hath no authority to command what he can perſuade by argument, he is to take care it be well and wiſely, to the glory of God and the good of his Church, to the edification of all men that are intereſted, and the ſpecial comfort and ſupport of the weak. The ſumme of which power is excellently ſumm'd up by S. *Paul*. *For ye know what Commandements we gave you by the Lord Jeſus. For this is the will of God, even your ſanctification: That ye abſtain from fornication.... that no man defraud his Brother.* In theſe things the ſpiritual power is proper and competent. But the Apoſtle addes, *He therefore that deſpiſeth, deſpiſeth not man but God, who hath alſo given us his holy Spirit.* That is, In thoſe things which are certainly the laws of God the Biſhop is to rule intirely according to the power given him. But becauſe God hath not onely given his authority, but his ſpirit too, that is, he hath given him wiſdome as well as power, it cannot be ſuppoſed to be for nothing: whatever he wiſely orders, that is of neceſſary relation to the expreſſe command of God, or is ſo requiſite

1 Theſſal. 4. v. 2, 3, and 6.

quiſite for the doing of it, that it cannot be well done without it by any other inſtrument, nor by it ſelf alone. In this it is to be ſuppoſed that the ſpirit of government which God hath given to his Church will ſufficiently aſſiſt, and therefore does competently oblige: leſſe then this the Spirit of God cannot be ſuppos'd to doe, if it does any thing beſide giving and revealing the expreſſe commandement and neceſſary duty.

23. Beyond theſe ſtrict and cloſe meaſures there is no doubt but the Spirit of God does give aſſiſtance: as the great experience of the Church, and the effects of government, and the wiſe rules of conduct, and the uſefull Canons, and the decent Ceremonies, and the ſolemn rites, and the glorifications of God conſequent to all this doe abundantly teſtify. But yet beyond this, the Biſhops can directly give no laws that properly and immediately bind the tranſgreſſors under ſin: and my reaſons are theſe.

24. 1. Becauſe we never find the Apoſtles uſing their Coercion upon any man but the expreſſe breakers of a Divine Commandement, or the publick diſturbers of the peace of the Church and the eſtabliſh'd neceſſary order.

25. 2. Becauſe even in thoſe things which were ſo convenient that they had a power to make injunctions, yet the Apoſtles were very backward to uſe their authority of commanding; much leſſe would they uſe ſeverity, but intreaty. It was S. *Paul*'s caſe to *Philemon* before mention'd; *Though I might be much bold in Chriſt to enjoyn that which is convenient; yet for love's ſake I rather intreat thee.* Philemon 8, 9.

26. 3. In thoſe things where God had interpos'd no Command, though the rule they gave contain'd in it that which was fit and decent, yet if men would reſiſt, they gently did admoniſh or reprove them, and let them alone. So S. *Paul* in caſe of the *Corinthian* men wearing long haire, *If any man liſt to be contentious, we have no ſuch cuſtome, nor the Churches of God:* that is, let him chuſe; it is not well done, we leave him to his own liberty, but let him look to it.

27. 4. If the Biſhops power were extended further, it might extend to Tyranny, and there could be no limits beyond this preſcrib'd, to keep him within the meaſures and ſweetneſſe of the government Evangelical: but if he pretend a Divine authority to goe further, he can be abſolute and ſupreme in things of this life which doe not concern the Spirit, and ſo fall into *Dynaſty*, as one anciently complain'd of the Biſhop of *Rome*, and change the *Father* into a *Prince*, and the *Church* into an *Empire*.

28. But this hinders not but that the power of ſpiritual Rulers may yet extend to a further uſe, not by a direct power of command, or of giving laws, but by all the indirect and collateral ways of obligation, as of fame, conſent, reputation of the man, the reverence of his perſon, and the opinion of his wiſedome and ſanctity, by voluntary ſubmiſſion, and for the avoiding ſcandal: when any of theſe cauſes of action or inſtruments of obligation doe intervene, the Biſhop does not directly bind, but the people are bound: and their obligation from all theſe principles are reduc'd to two heads. *The matter of ſcandal*; in which caſe, under pain of ſin they muſt obey in all

lawfull things, when by accident and the concurſe of emergent cauſes it is ſcandalous to diſobey. And the other is, *Their own conſent*; for however it be procur'd fairly, if they once have conſented, they are become a law unto themſelves, and ſo they remain till this law ſuffers diminution as other laws doe that die: of which I am afterwards to give account.

There is one way more by which Eccleſiaſtical laws doe bind; but this is the matter of the next Rule.

Rule V.

When the Canons or Rules of Eccleſiaſtical Rulers are confirmed by the ſupreme Civil power, they oblige the Conſcience by a double obligation.

1. Τὸ νομοθετεῖν ἀνέπαφον τοῖς βασιλεῦσι, ſay the Greek Lawyers. *The power of making laws*, viz. of determining things not commanded by God, or of puniſhing prevarications againſt Gods laws or their own, *is granted to Kings*. And therefore as ſecular Princes did uſe to indict or permit the indiction of Synods of Biſhops; ſo when they ſaw cauſe, they confirm'd the ſentences of Biſhops and paſs'd them into laws. Before the Princes were Chriſtian, the Church was governed by their ſpiritual guides, who had authority from God in all that was neceſſary, and of great conveniency next to neceſſity; and in other things they had it from the people, from neceſſity and from good will, by hope and fear, by the ſenſe of their own needs, and the comfort of their own advantages. It was *populus voluntarius*, the people came with free-will-offerings, and were at firſt govern'd by love as much as now they need to be by fear and ſmart. But God was never wanting to his Church, but made proviſions in all caſes and in all times. Of that which was neceſſary Chriſt left in his Miniſters a power of government: and in that which was not primely neceſſary, but emergently and contingently came to be uſeful and fit, he onely left in his Miniſters a power to perſwade; but he gave them an excellent ſpirit of wiſedome and holineſſe by which they did prevail, and to the people the ſpirit of love and obedience: and theſe together were ſtrength enough to reſtrain the diſobedient. For as in the Creation there was Light before the Sun, that we might learn that the Sun was not the fountain of light, but God: ſo there was a government in the Church even before the Princes were Chriſtians, that the ſupport and ornament of Gods Church might be owned as an efflux of the Divine power, and not the kindneſſe of Princes. But yet as when the Light was gathered and put into the body of the Sun, we afterwards deriv'd our light from him, and account him the Prince of all the bodies of light: ſo when the government external of all things was drawn into the hands of Princes becoming Chriſtians, to them the Church owes the heat and the warmth, the light and the ſplendor, the life of her laws, and the being of all her great advantages of maintenance and government. At firſt the Church was indeed in the Common-wealth, but was reckoned no part of it, but as enemies and outlaws, were perſecuted with intolerable violence; but when the Princes of the Common-wealth became

came servants of Christ, they were also nurses of the Church, and then it became a principal part of the Republick, and was car'd for by all her laws.

2. For this first way was not like to last long; for good manners soon corrupt, and a precarious authority, though wise and holy, useful and consented to, was not stable as the firmament of laws that could compel: and yet it became necessary by new introduc'd necessities that there should be rules and measures given in things relating to the Church, concerning which God himself had given no commandement; as concerning order in Synods and conventions Ecclesiastical, the division of Ecclesiastical charges, the appointment of under-ministeries in the Church, the dispensation of revenues, the determination of causes and difficulties in manners of speaking or acting, and whatsoever was not matter of faith or a Divine Commandment: *in all that* new necessities did every day arise, and the people were weary of obeying, and the Prelates might presse too hard in their governing, or might be suppos'd to doe so when they did not, and the peoples wearinesse might make them complain of an easy load; and it was not possible well to govern long by the consent of the people who are to be governed. It pleased God to raise up a help that should hold for ever, and when the Princes became Christian and took care of all this, that is, of all the external regiment of the Church, of all that was not of spiritual nature and immediate necessary relation to it, then the Ecclesiastical laws were advised by Bishops and commanded by Kings; they were but Rules and Canons in the hands of the spiritual order, but laws made by the secular power. And now these things are not questions of the power of the Clergy, but a matter of obedience to Kings and Princes.

3. These Canons before the Princes were Christian were no laws further then the people did consent; and therefore none but the men of good will, the pious and the religious children of the Church did obey: but now that Princes have set the Crosse upon their Imperial globes and scepters, even the wicked must obey; all are tied by all manner of ties, and all can be compelled that need it. These Ecclesiastical laws so established the Greeks call Διαταγματα, διορισματα, χρυσόβυλλα, κυρῶντα τὰς συνοδικὰς ἀποφάσεις, *Edicts, orders, and golden bulls, commanding or making into laws the sentences and rules of Synods.* The ἀποφάσεις, that's the effect and production of Bishops in their conventions; that is, they have *jus pronunciandi quid sanctum, quid non, a right of pronouncing what is for Gods glory and the interests of religion, and what not:* but the τὸ κῦρος καὶ τὸ κελεύειν, *the establishment and the command* belong to Princes. The Synod hath a κρίσις or *a right of judging*, but the βεβαίωσις or *confirmation* of it into a law belongs to the Civil power. So we find in a Synodal Epistle *de non avellendis episcopis à sua Metropoli*, εὑρέθη τι καὶ παρὰ τοῖς πάλαι νενομισμένον κρίσει συνοδικῇ καὶ βεβαιώσει βασιλικῇ κεκωλῦσθαι, *some such thing as this hath been found done by the decree or judgement of a Synod, but established by after-judgement of the King.* To the same sense are those words of Βασιλικὰ διατάγματα applied to the Bishops Canons, and προστάγματα to the Kings Edict upon them; and therefore the Emperors and Princes were said βεβαιοφανίζειν τὰ κεκριμένα, * *to put the seal of their authority to the decrees of* the Fathers †.

* in act. Concil. C. P.
† Vidè Chapt. 3. Rule 8. hujus libri.

4. For it was never known in the Primitive Church that ever any Ecclesiastical law did oblige the Catholick Church unlesse the secular Prince

did eſtabliſh it. The *Nicene* Canons became laws by the Reſcript of the Emperor *Conſtantine*, ſays *Sozomen*. He wrote an Epiſtle and commanded that all Churches ſhould keep Eaſter by the Canon of the *Nicene* Fathers, and made it capital to keep any of the books of *Arius*. * When the Council of *Conſtantinople* was finiſh'd the Fathers wrote to the Emperor *Theodoſius*, and petition'd *ut edicto Pietatis tuæ confirmetur Synodi ſententia*, *that he would be pleaſed to confirm the ſentence of the Council by his Edict*: *ut quemadmodum literis quibus nos vocabas Eccleſiam honoraſti, ita etiam decreta communibus ſuffragiis tandem facta ſigillo tuo confirmes*. The Emperor had done them favour and honour in calling them together, and they petitioned he would alſo confirm what they had agreed upon, and by his ſeal make it authentic. The confirmation of the Canons and Decrees of the great *Epheſin* Council by the Emperor is to be ſeen at the end of the Acts of the Synod: and *Marcian* the Emperor wrote to *Palladius* his Prefect a letter in which he teſtifies that he made the Decrees of the Council of *Chalcedon* to become laws. For having forbidden any perſon to make aſſemblies and orations of religion in publick, he addes this reaſon, *Nam & injuriam facit reverendiſſimæ Synodi judicio, ſi quis ſemel judicata ac rectè diſpoſita revolvere & publicè diſputare contenderit; cùm ea quæ nunc de Chriſtiana fide à Sacerdotibus qui Chalcedone convenerunt per noſtra præcepta ſtatuta ſunt*, &c. *For he does injury to the judgement of the moſt reverend Synod, if he ſhall unravel and diſpute the things which were there judged and rightly diſpoſed; ſince thoſe things appointed by the Biſhops met at* Chalcedon *concerning Chriſtian faith were commanded by us*; or *were appointed by our Commandement.... Nam in contemptores hujus legis pœna non deerit*, They that deſpiſe this law ſhall be puniſhed. Thus alſo the Fathers of the fifth General Synod petition'd *Juſtinian* to confirm and eſtabliſh their Canons into a law, in the ſame form which was ſent to *Theodoſius* by the Biſhops of the General Council at *Conſtantinople* before mention'd. * The ſame Prince alſo publiſhed a *Novel* in which he commands *vim legum obtinere Eccleſiaſticos Canones à quatuor Synodis, Nicena, Conſtantinopolitana prima, Epheſina prima & Chalcedonenſi expoſitos & confirmatos*; that all the laws which were made or confirm'd by the four firſt General Councils ſhould have the force of laws: that is, all their own Canons and thoſe of *Ancyra, Gangra, Antioch* & *Laodicea*, which were then adopted into the Code of the Univerſal Church, though they were but Provincial in their original.

* Vide Concil. Tolet. 6.

5. So that now upon this account the Eccleſiaſtical laws are as obligatory to the conſcience as thoſe which are made in a Civil matter; and there is no difference but in the matter onely: but for that there will be ſome advantage; for as the Civil power hath authority in Eccleſiaſtical matters, ſo the ſpiritual power hath a ſhare in the legiſlative: the matter is handled by the Eccleſiaſtics, and the law is eſtabliſhed by the ſecular. And therefore if it be thought that the cogniſance of theſe things is not proper for ſeculars, thoſe that think ſo may be ſatisfied that the Biſhops have judged the thing already; and they that think the Biſhops have no power of making the law, may learn to obey, becauſe the Prince hath by his legiſlative eſtabliſhed it. So one hand helps another, and both are lift up to God, but will fall heavy upon the diſobedient.

§. 2.

§. 2. Of CENSURES Eccleſiaſtical.

I have given the general meaſures of the Legiſlative power of the Eccleſiaſtical ſtate: next to this I am to account concerning their Coercitive §. 2. and then return to the inquiries after the more particular ſubjects of this power §. 3. and their particular laws and their obligations upon the conſcience in external order §. 4. and in matters of faith §. 5.

RULE VI.

Kings and Princes are by the ties of Religion, not of power, oblig'd to keep the laws of the Church.

1. THe laws of the Church I have already divided into ſuch which ſhe makes by a Divine authority, ſuch which concern our eſſential duty, in which ſhe hath power to command and rule in her appointed manner; and into thoſe which are external, political and contingent, ſuch which Princes if they pleaſe make up into laws, but the ſpiritual power cannot. In the firſt ſort, Kings and Princes are as much tied to obedience as the meaneſt Chriſtian ſubject. For the King, though he be ſupreme in government Political, yet his ſoul is of Chriſts fold, and to be conducted by a proper ſhepherd. It is no contradiction that the ſame perſon ſhould be ſupreme, and yet obey in another regard in which he is not ſupreme. The Captain that fights in a ſhip commands the ſouldiers in chief, but himſelf obeyes the Maſter; and the ſafety of the ſouldiers depends upon them both: for they are diſtinct powers in order to diſtinct purpoſes. For Kings muſt give an account for Biſhops that they live well in the political capacity, and Biſhops for Kings in their ſpiritual; and therefore they muſt obey each other: and we find that perſons of greateſt honour in the days of peace, ſerve under Captains and Generals in the time of warre; and when *Themiſtius*, an excellent Philoſopher, who from his chair did rule and dictate wiſe things, and give laws to the underſtandings of his Auditors, and was admir'd by his Prince, was by the Emperor *Conſtantius* advanc'd to a prefecture, in an excellent Epigram he ſays to himſelf, Νῦν ἀνάβηθι κάτω, γὰρ ἄνω κατέβης, *Now aſcend downwards, for thou haſt already deſcended upwards.* The ſame dignity is above and below in ſeveral regards. But in this there is no difficulty, becauſe the ſouls of Princes are of equal regard, and under the ſame laws of God, and to be cleans'd and nouriſh'd by the ſame Sacraments, and tied to the ſame duty by the Commandements of God as any of the people; in this there is no difference.

2. But in matters not of neceſſary duty, not expreſſely required by God's law and the neceſſary, unavoidable, immediate conſequents of it, there being no laws but what themſelves have made, they are no otherwiſe oblig'd then by their own civil laws, of which I have already given account. This thing is particularly noted by *Balſamo* upon the 16th Canon of the Council of *Carthage*, who affirms that by the reaſon of the power given to Princes

Princes from God they are ſubject neither to their laws nor Canons. And of this latter he gives this inſtance, That although by the XIIth Canon of the Council of *Chalcedon* it was decreed that no city ſhould for the future acquire the title of a *Metropolis*; yet after this *Juſtinianea prima* was made an Archiepiſcopal ſeat and had Metropolitical rights, to the diminution of the former rights of *Theſſalonica*: but *Balſamo* inſtances in divers others. There was an ancient Canon of great celebrity in the Church, that every city ſhould have a proper Biſhop: but the Biſhops of *Iſauropolis* and *Tolma* beſides their own, had others; ſo had the Biſhops of *Lichfield* and of *Bath* in *England*: they had other cities under their juriſdiction which had no Biſhops in propriety. For if Kings did give limit to their Dioceſes they might divide again, and give a new limit; ſince it is not in Kings as it is in people. The power that goes from the people is like water ſlipt from their hands, it returns no more, and does not abide in the firſt place of it's efflux; but when an act of power paſſes from the King, any deputation or truſt, any act of grace or delegation of juriſdiction, it is like heat paſſing from the fire, it warms abroad, but the heat ſtill dwells at home. It is no more the leſſe, then the Sun is for the emiſſion of it's beams of light.

3. And this is apparent in all the privileges and conceſſions made to the Church, which are as revocable as their duty is alterable. For Princes are ſo far from being oblig'd to perpetuate ſuch rights which themſelves have indulg'd, that it is a rul'd caſe, and the Greek Fathers ſometimes make uſe of it to this very purpoſe, ὁ δωρεαμένος βασιλεὺς, ἐι ἀχαριστίαν παρεμπίπτοι λόγος, ἀναλαμβάνει πάλιν δωρεάν, *If a King hath given a gift, he may recal it in caſe the beneficiary proves ingratefull.* The ſame with that in the feudal laws of the *Lombards*, *Feudum amittit qui feudum ſciens inficiatur.* If he wittingly denies the fee, or refuſes homage, he looſes it. But this depends upon the reaſons of the ſecond Rule in the third Chapter of this Book.

Leunclav. Basilic.

4. But although in ſtrict right the Kings laws oblige him not, yet becauſe *de bono & laudabili* he is in the ſenſes above explicated oblig'd to his civil laws, therefore much more is he tied to the obſervations and Canons of the Church, as being ſpecifications of religion, inſtances of love to God, ſignifications of ſome internal duty, or outer guards to piety, great examples to the people, and honours to the Church of Chriſt, and that which above all external things will enable the Rulers and guides of ſouls to render their account with joy; and the King ſhall never ſo well promote the intereſts of religion by any thing, as by being himſelf ſubject to the religion: for who will murmure at thoſe laws which the King himſelf weares in a phylactery upon his forehead and his wriſts? *Facere rectè cives ſuos princeps optimus faciendo docet; cumque ſit Imperio Maximus, exemplo major eſt*, ſaid *Velleius Paterculus.* This is moſt of all true in religion, whoſe laws look too like policy when they are eſtabliſhed onely by penalties, but they are accounted religion when they are made ſacred by example. To which purpoſe is that of *Tacitus*, *Obſequium in Principem & æmulandi amor validiora quam pœna ex legibus.* It is duty to our Prince, and it is our honour to imitate the example of the Prince; and theſe prevail more then penalties. *Hæc enim conditio principum, ut quicquid faciant, præcipere videantur*, ſays *Quintilian.* Their example is the beſt law.

Annal. 3.

Declam. 4.

Sic

Sic agitur censura, & sic exempla parantur,
Si Judex, alios quod jubet, ipse facit.

So laws and judgements and good manners are best established, when by the examples of Kings and supreme Judges they are made sacred.

Adde to this, that the laws of religion have most of them the warranty of some internal grace or other; and are to be reckoned in the retinue and relation of that vertue, and therefore cannot in many instances be broken without some straining of our duty to God, which is by the wisedome and choice of men determin'd in such an instance to such a specification. But this is to be understood onely in such laws which are the περιφυλακαὶ *outerguards*, the exercises of internal religion, not in the garments and adornments of the relatives and appendages of religion. If a Prince despises the Festival of the Church, nothing but a competent reason will excuse him from being or at least from seeming irreligious. And in whatsoever instance he hath made or consented to laws of religion, if by them he can suppose the people may serve and please God, he is much more oblig'd then they; not by the duty of obedience, for he owes none, but by the vertue of religion: for besides that his soul must live or die by greater measures and exactions of those vertues which bring the people unto heaven, every action of his that deserves an ill report, it is but *scandal* in the lesser people, but to him it is *infamy*. For the Kings Escutcheon is blazon'd otherwise then that of his subjects: the Gentry by metals, the Nobility by precious stones, but Kings by planets. For in a King there is nothing moderate. *Cavere debet qualem famam habeat, qui qualemcunque meruerit, magnam habiturus est*, said *Seneca*. His fame, let it be good or bad, it will certainly be very great. de Clementia

5. The summe is this: Kings are so tied to their own Ecclesiastical laws, that they must take care they be not despis'd by their example, that the religion design'd by them be promoted, that that part of the Commonwealth which most secures to them obedience and peace, and procures them the most and greatest blessings, be not discouraged or disadvantag'd: but they are not so tied that every act of omission is imputable to them, though it have no other cause but the use of his liberty; for in this his duty differs from that of his subjects: for obedience which the subject owes is a part of justice, and that hath no degrees, but consists in an indivisible point where it can be practis'd, and where it can be understood; for he is unjust that does one act of injustice. But religion hath a latitude of signification and instances, and a man may be very religious who yet does not keep a Saints day where by obedience he is not bound; which is the case of Kings. Therefore what *Seneca* said of the cares of Kings, may be said of the external observations of the laws of religion, *Remissum aliquando animum habebit, nunquam solutum*, He may remit something of the strict observance, but he must never esteem himself wholly quit.

6. But this is to be understood onely in externals and rituals; concerning which one said excellently, *Pleraque ex iis magis ad morem quam ad rem pertinent*, They are nothing of the substance of religion, but onely appendages, and manner, and circumstances: and therefore; *Sapiens servabit ea tanquam legibus jussa, non tanquam diis grata*, A wise man will observe rituals because they are commanded by laws, not that they are pleasing to God. They are the words of *Seneca* quoted by S. *Austin*. Since therefore these lib. 6. de civit. Dei.

are

are wholly matter of obedience, Kings are free, ſave onely when they become bound collaterally and accidentally. But in matters of eſſential duty, the King hath equally with his ſubjects no liberty, but much more direct duty, and many more accidental obligations. The whole affaire is well enough expreſs'd by *Cicero*, *Religioni parendum eſt: nec patrius mos contumaciter repudiandus.* The Prince muſt obey religion, and he muſt not deſpiſe the cuſtomes and the manners of his Country; that is, in the better words of our Bleſſed Saviour, *Theſe things they ought to doe, and not* [wholly] *to leave the other undone.*

de Divinat. 2.

7. But the liberty of Princes in theſe Eccleſiaſtial laws of order, and circumſtance, and ritual obſervances is very apparent in the practice of the Hebrew Kings, who yet poſſeſs'd this liberty, that even in the rituals of the Divine ordinance they ſometimes did diſpenſe. Thus *David* eat the ſhew-bread; and *Hezekiah* permitted ſome that were unclean to eat the paſſeover, otherwiſe then it was written: onely *Hezekiah* prayed to God not to impute it to them, and gave them way: and under his reigne the *Levites* did kill the ſacrifice twice, which was onely lawfull for the Prieſts to doe. But it was a favourable caſe, becauſe the Prieſts were but few, and the ſacrifices were very numerous: and if it be (as the Greek expreſſion is) lawfull χαλάσαι τι τ ἀκριβείας *to looſe a litle of the exactneſſe* of the rituals of the Divine appointment, it is certain where the man is the lawgiver, he can much more uſe the liberty. But it is not good to doe all that is lawfull.

Levit. 7. 20. 2 Chron. 30. 18.

Levit. 1. 5. 2 Chron. 29. 24. & 30. 17.

Rule VII.

It is not lawful for the Eccleſiaſtical power to excommunicate Chriſtian Princes, or the ſupreme Civil power.

1. IN the ſentence & penalty of the leſſer excommunication as it is us'd in the Church there are three portions of evil. In one the Biſhop is the author or miniſter, in the other the people, and in the third the Prince. The firſt is a denying to miniſter the holy myſteries. The other is a withdrawing from the communion and converſation of ſuch a perſon: which although it be done moſt of all in the greater excommunication, yet it is done alſo in ſome proportion in the leſſe, for emendation of the erring brother; not for extermination, as appeares in the Apoſtolical precept given to the Church of *Theſſalonica*, 2 Theſſal. 3. v. 6, and v. 14, 15. And the laſt is, the ſupervening temporal puniſhments by which Princes uſe to verify the juſt ſentences of the Church againſt refractary Criminals.

2. Concerning the laſt, it is certain it wholly is owing to the power and favour of the Prince; who by that favour is not ſuppos'd to lay violent hands upon himſelf, who if he did, could quickly take them off again: however the Church inflicts not them by her own authority, but by that of the Prince, who will not, like the tree in the Fable, lend a ſtick to the hatchet,

hatchet, to be hewen down or hurt by it afterwards.

3. But then concerning that part which is inflicted by the people, which is abſtinence from the ſociety of the offender till he repent and make amends and get his pardon, it is infinitely certain the Church cannot inflict that on Kings; becauſe it is deſtructive of the duty which the people owe to their Prince, and of the rights which the Prince hath from God independently from the religion.

4. Beſides this, nothing ought to be done to the diſhonour of the ſupreme power, to whoſe happy government fame is almoſt as neceſſary as power: and the impoſing upon them diſgracefull penalties is κρίσις βλασφημίας, *a note of diſhonour and blaſphemy*; for they are to eſteem their King as a heathen and a publican, from whoſe ſociety they are to eſtrange themſelves as from a peſtilence. *Inviſum ſemel principem ſeu bene ſeu malè facta premunt*, ſaith *Tacitus*. If he once fall into ſuch a calamity and diſhonour, whether he doe well or ill afterwards, it ſhall be evil to him.

5. And yet further, the power of aſſemblies and publick meetings is wholly by the laws and permiſſion of Kings; and nothing is more unreaſonable then that any man ſhould interdict Kings from publick meetings by whom himſelf hath leave to meet publickly. And therefore we find Imperial laws making proviſions in this very particular, and ſo far from being ſubject to any thing of this nature, that the Emperors gave orders and ſtrict meaſures to the Biſhops when they ſhould, and whom they ſhould or ſhould not ſeparate from Churches and Communions; as is to be ſeen *l.* 30. *Cod. de Epiſc. & Clericis* and in the 123. Novel of *Juſtinian*. For even in thoſe actions of Biſhops in which themſelves have liberty & Divine authority, yet the ſupreme Civil power hath external juriſdiction. Thus *Mauritius* the Emperor commanded *Gregory* the Great, Biſhop of *Rome*, to communicate with *John* of *Conſtantinople*; and anciently in *France* the Princes were wont to compell the Clergy to officiate; and when the Pope had interdicted the kingdome of *England*, the King compelled the Prieſts and Biſhops to open their Churches: ſo it is in *Holland*, and ſo in *Venice*, and ſo in all places where Kings know their power and their intereſt and their duty.

6. For if excommunication be onely an act of caution and prudence, it is very great prudence not to involve Kings in it, leſt they be provok'd by the evil uſages of the Church; and if it be nothing elſe, certainly it cannot be neceſſary to be done at all. But if it be an act of external juriſdiction, it derives from Kings, and therefore they are not under it but over it: for no coercion in the hands of man ought to touch thoſe who are reſerv'd onely for the judgement of God. *Apud ſereniſſimum Regem opus eſt exhortatione potius quam increpatione, conſilio quam præceptis, doctrina quam virga*, ſaid *Hildebertus* the Biſhop. *The King is to be exhorted, not reproved; counſelled, not commanded; and to him not a rod, but doctrine is to be us'd*: and *Ivo* Biſhop of *Chartres* * ſaid the ſame thing. Kings if they abuſe their power are not to be provok'd; but in caſe they refuſe the admonition of Biſhops, they are to be left to the Divine judgement; where they will be puniſh'd the more ſeverely, by how much they were the leſſe obnoxious to humane monitions. So *Gregorius Turonenſis*, *Si tu exceſſeris*, * Epiſt. 171.

quis te corripiet ? Si autem nolueris, quis te damnabit, niſi is qui ſe pronunciat eſſe Juſtitiam ? He ſpake to King *Chilperic*. *If thou beeſt exorbitant, who ſhall correct thee ? If thou refuſeſt, who ſhall condemn thee, but he onely who is the Everlaſting Righteouſneſſe ?* For if S. *Paul* gave in charge to *Timothy* that each perſon ſhould receive an impreſſion and emanation from the Paſtoral charge according to his quality, and commanded that he ſhould
1 Timoth. 5.1. *not rebuke an Elder, but intreat him as a Father* ; much leſſe would he have permitted any to have puniſh'd the Father of the Country and his own ſuperior, and him who is leſſe then none but God, and by whom himſelf can rule others in external actions, and who in theſe very adminiſtrations is ſuperior, and can give laws, and inflict penalties, and is judge and the remedy of all abuſes.

7. And if concerning this inquiry we conſult the doctrine and practices of the Fathers in the Primitive and Ancient Churches, we ſhall find that they never durſt think of excommunicating Kings. They had no power, no right to doe it. *Nam Sacerdotis tantum eſt arguere, & liberam præſtare admonitionem*, ſaith S. *Chryſoſtom*, *Prieſts can onely reprove and argue, and give a free admonition* : and therefore the firſt ſupreme Prince that ever was excommunicated by a Biſhop, was *Henry* the Emperor by Pope *Hildebrand*.
Homil. 4. de verbis Iſai. Vidi Dominum.

8. But againſt this that I ſay now, the Doctors of the Church of *Rome* make a mighty out-cry, ſaying that *Philip* the firſt Chriſtian Emperor was excommunicate and thruſt amongſt the penitents ; that *Babylas* the Biſhop of *Antioch* thruſt the Emperor *Decius* with his hands againſt his breaſt from the doors of the Church ; that *Athanaſius* excommunicated the Prefect of *Libya*, and S. *Baſil* commanded in his Dioceſe that he ſhould be avoided ; that S. *Ambroſe* did excommunicate the Emperor *Theodoſius* ; that S. *Chryſoſtom* forbad *Eudoxia* the Empereſſe to enter into the Church doors ; that *Innocentius* excommunicated *Arcadius* ; ſo did *Syneſius* to *Andronicus* the Prefect, S. *Auſtin* to *Bonifacius*, Pope *Symmachus* to *Anaſtaſius* the Emperor, Pope *Vigilius* to *Theodora* the Empreſſe, *Gregory* the ſecond to the Exarch, *Gregory* the third to *Leo Iſaurus*. Inſtances enough, if they be right and true, to ſhew that the Fathers were of another mind then the Rule pretends.
Euſeb. lib. 6. c. 27. Chryſoſt. adv. Gentes. Baſil. Ep. 47. Paulin. apud Baron. A. D. 387. Theod. lib. 5. c. 17. Leo Aug. orat. de vita Johan. Chryſoſtom. Niceph. lib. 13. c. 34. Aug. Epiſt. 6. in append. Greg. lib. 2. Ep. 36. Anaſtaſ. Biblioth. in Greg. 2.

9. But in this heap I muſt ſeparate what is true and certain from what is falſe and uncertain, and give an anſwer to them, and the reſt will not trouble us. * The ſtory of the Emperor *Philip* is vehemently ſuſpected : but if it were true, yet it was no excommunication, but his own ſubmiſſion to the diſcipline of penitents ; to which, ſaith *Euſebius*, he was perſuaded by the Biſhop. * And the ſame was the caſe of S. *Ambroſe* to *Theodoſius* : the Prince was perſuaded to it, * but it was onely to doe his repentance after the manner of the penitents in thoſe days ; the Biſhop onely refus'd to celebrate in the preſence of the Emperor if he would not give teſtimony of his repentance towards God. This the Emperor did, becauſe he was a good man, and things were then in ſuch a conjunction, that there was nothing amiſſe : but that S. *Ambroſe* could not have verified his power, if the Emperor had been unwilling, and the Emperor did doe more then was neceſſary. But S. *Ambroſe* ſaid that he had his warrant to uſe the Emperor ſo, from
* *ultrò à communione abſtinuiſſe Theodoſium aiunt Ruffinus lib. 2. c. 18. & Waremund. ab Erenb. c. 2. de ſubſid. reg. n. 3. & ſeqq.*

from a viſion. His warrant was extraordinary: for he had no ordinary power or commiſſion. * The excommunications of the Prefects by S. *Athanaſius*, S. *Baſil*, S. *Auſtin*, *Syneſius* and *Gregory* the ſecond doe not come home to the inquiry, becauſe the Prefects were but ſubjects and had not the privilege of ſupreme Princes. * The fact of *Babylas* to *Decius* was not excommunication: for *Decius* was a Heathen, and the Church hath *nothing to doe with them that are without*; but *Babylas* was zealous and fierce, and acted with the ſpirit of a Martyr, to which he haſtned by his fervor. * S. *Chryſoſtom* indeed did that to *Eudoxia* which did not become him, and which he had leiſure and cauſe enough afterwards to repent: he did in anger what himſelf in the ſober hours of his life profeſſed to be more then he could juſtify. That of *Innocentius* to *Arcadius* is of no credit, and ſo is that of *Symmachus* to *Anaſtaſius*, as being onely ſeen in the Epiſtles of the Popes of *Rome*; concerning which there is nothing certain, but that very many of them are certainly ſpurious. The pretended excommunication of *Theodora* by *Vigilius* hath no teſtimony. *Contra Theodoram & Acephalos Vigilius pronunciavit damnationis ſententiam*, ſaid *Gregory*. But this was nothing but a condemnation or rejection of the hereſy of the *Acephali* with which ſhe was partaker. And the like was the caſe of *Leo Iſaurus*; it was *ſententia damnatoria*, a condemnation of his opinion, called by *Zonaras* ἀνάθεμα σωοδικόν. But theſe things are onely pretended to make noiſes. Pope *Hildebrand* was the firſt that ever did any thing of this nature; as is expreſſely affirmed by Authors of great credit, by *Otho Friſingenſis*, by *Godefridus Viterbienſis*, and by *Onuphrius*, who counted all the other pretences either fabulous or to no purpoſe.

lib. 2. Ep. 36.

10. But yet there is a third portion of excommunication, which is a denying to adminiſter the holy Communion to Princes of a ſcandalous and evil life; and concerning this there is no queſtion but the Biſhop not onely may, but in ſome caſes muſt doe it. *Nolite dare ſanctum canibus*, ſaid Chriſt, *Give not that which is holy to dogs*; and caſt not pearls before ſwine. But this is not an act of juriſdiction, puniſhment or coercion, but of charity to the Prince and duty in the Biſhop. It is juſt as if a Phyſician ſhould refuſe to give drink to an hydropic patient; he may have it if he will be willing to die, but if the other refuſes his miniſtery in the reaching it, he is charitable and kind, not imperious and uſurping. For whatſoever is in the Eccleſiaſtical hand by Divine right, is as applicable to him that ſits upon the Throne as to him that ſits upon the Dunghil. But then the refuſing it muſt be onely by admonition and caution, by fears and denunciations Evangelical, by telling him his unfitneſſe to communicate, and his danger if he doe: but if after this ſeparation by way of ſentence and proper miniſtery the Prince will be communicated, the Biſhop hath nothing elſe to doe but to pray, and weep, and unwillingly to miniſter. S. *Gregory*'s caſe with *Mauritius* the Emperor was like this. The Prince commanded him to be the miniſter to hand an unlawfull Edict to the Churches: the Biſhop told the Prince it was a ſinne which the Prince went about, prayed, admoniſh'd, declam'd, did all that he could to hinder it, and then obeyed; that is, he did all he could to God, by uſing all his authority, the word of his proper miniſtery, and then all that he owed to the Prince, by ſubmitting his external miniſtery to his command. The unlawfull proclamations and Edicts of a true Prince may be publiſhed by the Clergy in their ſeveral charges; but yet they muſt not conceal from the people any thing of their duty, nor

yet from their Prince when they can declare it. It was alſo the caſe of
1 Sam. 15. 25. *Saul* and *Samuel*. The King deſir'd *Samuel* to joyn and communicate with him in the ſervice of the Lord. He with the liberty of a Prophet refus'd at firſt, and declar'd the heinouſneſſe of *Sauls* ſinne; but at laſt, when the King's will was preſſing and importunate, *Samuel* did obey his voice and did joyn with him. *Ivo* Biſhop of *Chartres* tells that in ſuch caſes where Princes will not comply with the cuſtomes and diſciplines of the Church, the Biſhops muſt doe their duty by ſaying, *Nolo te fallere; introitum hujus viſibilis Eccleſiæ periculo tuo te habere permitto. Fanuam regni cœleſtis tali reconciliatione tibi aperire non valeo.* Sr, *I will not deceive you; at your peril be it if you will come into the holy place to partake of holy myſteries. I declare to you, that this miniſtery* [of the communion] *is not any reconciling of you to God.* I cannot doe that, unleſſe you repent. But the reaſon of this is wholly upon this account, becauſe the Eccleſiaſtical ſtate hath no proper coercion by Divine right, but is a Miniſter of the Divine coercion, of ſpiritual promiſes and threatnings; their power is ſpiritual and internal, it hath it's effort upon the ſpirit, and not upon the outer man, and therefore is to proceed by methods fitted to the ſpirit, that is, by reaſon and argument, by the fear of God, and the terror of his threatnings, by the love of God and the invitation of his promiſes. But all the miniſteries and compulſions about the external is the gift and leave of Princes; and therefore it deſcends, but aſcends not, unleſſe they pleaſe; [of which by and by.] *Admoneri quidem poſſunt, increpari, argui à diſcretis viris: quia quos Chriſtus in terris Rex Regum vice ſuâ conſtituit, damnandos & ſalvandos ſuo judicio reliquit*, ſaid the Church of *Liege* in their Epiſtle to *Paſchalis*: *Kings may be admoniſhed and reprov'd and argued by diſcreet perſons; but they whom Chriſt the King of Kings hath appointed to be his vicars on earth, are intirely to be left to his judgement.*

Upon the likeneſſe of matter it is to be inquir'd

11. Whether the guides of ſouls have a proper and ſpiritual power to enjoyn penances or Eccleſiaſtical ſatisfactions to a Prince that hath ſinn'd publickly.

12. The anſwer to this depends upon the premiſſes. For the Church when ſhe enjoyn'd publick ſatisfactions, did ſeparate from the Communion thoſe whom they thruſt into the place of publick penitents. Now if the Biſhops may not ſeparate the Prince from the Communion, then neither impoſe thoſe penances to which that ſeparation did miniſter: But this is one of the Cenſures of the Church, and part of that coercitive power which ſhe hath by the permiſſion of Princes and the voluntary ſubmiſſion and conſent of good people: And therefore it cannot be done, unleſſe the Prince pleaſe. In the Primitive Church, when this diſcipline was in godly uſe, none could be compelled to it, but by conviction in publick, or private confeſſion, and in both caſes their own conſent was either expreſſe or implied; and therefore much leſſe can this be done to the ſupreme power whether he will or no. *Imperatoriâ unctione pœnitentiam tolli*, ſaid *Balſamo*, *From the ſuffering penances Kings are quitted by their anointing:* and upon thoſe words of *David*, [*Againſt thee onely have I ſinned*] S. *Ambroſe* hath this note, *He was a King, he was* held *by no laws*, becauſe Kings are free from the bands of delinquents; *Neque enim ullis ad pœnam vocantur legibus tuti Imperii poteſtate, Neither are they by any laws call'd to penance, being*

ad Can. 12. Synodi Ancyranæ

ſafe

safe by the power of their Empire. And since the Primitive Church was infinitely restrain'd in imposing publick penances on *Bishops*, for the honour of their order and dignity of their persons, we shall the lesse need to doubt of their opinion or practises concerning *Kings*.

13. But yet we find that some excellent good Princes did submit to such imposition of penances, and did abstain from the publick communions till they had given testimony of their repentance toward God. So the Emperor *Philip*, προθύμως ἐπεδάρχησε, he of his own willing mind plac'd himself amongst the penitents. So did *Theodosius* under the discipline and conduct of S. *Ambrose*. But these things are but cautelously to be drawn into example, and as they give no power to the Bishop, so very seldome doe they advantages to Kings. *Henry* the Emperor was a sad example of it, for his affaires went into diminution, and his person into contempt, and his power into pupillage as soon as ever he had done penance at *Canusium* bare-footed, in a cold winter, for three dayes together, and had endur'd the insolency and scorn of *Hildebrand*. And when Kings made themselves lesse, the Bishops became greater without any good to the Church, but not without much detriment to religion.

14. *But neither may Princes be reprov'd publickly.* For if he will not be obedient to the will of God in the voice of his ministers publickly teaching, or privately admonishing, and prudently reproving; he that goes about to reprove him publickly, intends by that meanes by some indirect coercion to compel him, either by shame or by fear; neither of which ought to be impos'd by a subject on the Prince. For it is to be observed that reproof is a part of Empire and superiority, and differs not from teaching, save onely that it is *manus linguæ*, it is *the hand of the tongue*, not the voice onely. He that reproves teaches onely *minors*: and though Kings are so in respect of the conduct of their souls, yet it must not be done to them but very sparingly, because it can very hardly be done without diminution of their dignity; and teaching or declaring their duty will doe their work for them if they please, and if they doe not please, he that reproves will doe the Prince no good, but he shall hurt himself, and shall not be a Martyr when he is smitten. Let no man therefore pretend zeal for God in excuse of any boldnesse more then Priestly towards Kings. For the work of God is oftentimes better done by a gentle hand, then by a strong.

——peragit tranquilla potestas
Quod violenta nequit: mandatáque fortiùs urget
Imperiosa quies—— Claud. in Paneg. Mallii.

And if we esteem reproof unseasonable where it is likely we maydoe hurt, & where it is not likely we shall doe good, much more is not this course prudent to be us'd to Kings, who may be provok'd by your ungentle Sermon, or may be hardened by your fire. For every Prince hath not the gentlenesse of *Antigonus*, patiently to hear himself revil'd: but if he had, yet it was but reason that *Antigonus* spake when he bade the Souldiers if they would revile him, to goe further off. And such men should doe well to consider how ill themselves would take it if they were publickly in the Pulpit call'd schismatics or incendiaries. * But how and if the people be as zealous as the Priest, and think it lawfull to call their King by all the names of reproach which they hear in the sermons of the Ministers? And if the Bishop

calls a ſpade a ſpade, it is very poſſible the people may doe ſo too, for they are ſoon taught to deſpiſe their rulers; and then it is to be remembred what *Ariſtotle* ſayes, ἐκ τῦ καταφρονεῖσθαι πολλὰς γίγνεσθαι τ καταλύσεων. If they once come to deſpiſe their Prince, they will ſoon unclaſp his royal Mantle.

15. It is true that the Miniſters of religion are *ſtewards of the myſteries* of God and *Embaſſadors for Chriſt*: and though I cannot ſay that they who upon this account think they have power publickly to reprove vitious Kings, and in plain language give names to their vices and publiſh their ſhame, doe overvalue their dignity, for that cannot eaſily be done; yet I ſay they uſe it incompetently and imprudently; for the effect of this power and dignity is not to upbraid, or to diſgrace, but to edify and doe good to all men according to their capacity: and therefore S. *Paul*, when he had declar'd his office and commiſſion to be Chriſt's *Embaſſador*, he addes, as the full, expreſſe and proper iſſue of that power, *we pray you in Chriſts ſtead to be reconciled to God.*

16. The old Prophets took liberty, and were bold in their reproofs, and troubled Kings; and the people ſometimes were ſtirred too much upon ſuch accounts: but when the Prophets were charged with ſedition, they onely gave in anſwer the expreſſe Commandement of God. And therefore it was that *Amos* being very bold was bidden not to *propheſy any more at* Bethel, *becauſe it was the Kings Chappel and the Kings Court*: and he was forc'd to plead a ſpecial miſſion; which the Prieſts had not, and therefore we doe not find that ever they us'd any ſuch licence and freedome of reproof, except in ſuch caſes in which they alſo became prophets; as it happened to *Jehoiada*, 2 Chron. 24. 20. and that's the very caſe of the Miniſters of the Goſpel, who unleſſe they had a ſpecial commiſſion, muſt teach according to the duty and obedience, the gentleneſſe and prudence of the religion; leſt it be ſaid to them as was ſaid by King *Amaziah* to a bold man that ſpake openly to him, *Have they made thee the Kings Counſellor? ceaſe thou, why ſhould they ſmite thee?*

Amos 7. 10.

Amos 7. 13.

2 Chron. 25. 16.

17. Now in this there can be the leſſe doubt, for they miſtake it that ſuppoſe this to be a queſtion of duty; it is onely an inquiry after the manner of doing the duty: and therefore although for the former reaſons this manner of doing their duty is not fit, yet it is neceſſary that the duty ſhould be done. For *miſer eſt Imperator cui vera reticentur.* No miſery is greater then that Kings ſhall not be taught their duty. They muſt be taught it all: and in this no liberty, if it be prudently conducted, can become licentious. To which purpoſe, the Biſhops and Miniſters of religion muſt thus comport themſelves to Kings.

18. 1. Let the publick doctrines be inſtructive, but not apt to raiſe ſuſpicion of the Prince. 2. Let it be in things certain and of evident and apparent duty. 3. Let no doctrines be fitted to private intereſts and partialities in the State. 4. Let no reproof of Kings be in Pulpits, for it is uncivil toward any *ut quis crimen audiat eo loco quo refellendi copia non ſit*, as the *Roman* ſaid, that a man ſhould be reprov'd in that place where for reverence and religion ſake the man may not anſwer for himſelf. And therefore *Clement* the third caus'd a Clergy-man to be puniſh'd becauſe *multis coram*

de Maledic. c. 1.

coram astantibus verba quædam in depressionem officii & beneficii nostri protulit, he spoke words in a publick audience tending to his disparagement: and the Emperors *Theodosius*, *Arcadius* and *Honorius* made a law, *Si quis modestiæ nescius, & pudoris ignarus, improbo petulantique maledicto nomina nostra crediderit lacessenda*, &c. *That if any man, forgetting shame and modesty, thought fit to dishonour the Emperors, he should not presently be punish'd: for if the man were a fool or a light person, the thing was to be despis'd; if he were a mad man, he was to be pitied; if injurious or angry, he might be forgiven*: but, *ad nostram scientiam referatur, ut ex personis hominum dicta pensemus, & utrum prætermitti an exquiri debeant censeamus*: the Princes would have it referr'd to their cognisance and judgment whether such persons should be punish'd or no. 5. Let there be no doubtful speeches in publick sermons scatter'd amongst the people concerning Princes, for they are publick *seditions*, not *sermons*. 6. When it is necessary or when it is prudent that *private* addresses to Princes be with a *sacerdotal freedome*, let it be in cases of great crimes, and evidently prov'd and evidently vitious, neither deriv'd from uncertain rumors of the people, nor from trifling suspicions, nor yet be in matters of secret concernment and undiscerned reason. A Prince may be reprov'd for notorious adultery, or evident murder against the forms of law; but not so freely in the questions of warres or judicature: for the Bishops private opinion may be warrant enough for him to speak it when he is requir'd, but not to reprove a Prince upon pretence of duty, and by a spiritual authority, when the matter of fact or the question of right is uncertain.

tit. C. Si quis Imper. maled.

RULE VIII.

Ecclesiastical Censures are to be inflicted by the consent and concurrence of the supreme civil power.

1. BY *Ecclesiastical censures* I mean the *greater* and *lesser* Excommunication. *This* is a separation of a Criminal (who is delated and convict by witnesses, or by confession voluntary) from the peace and communion of the Church, till he hath by exterior signes signified his internal repentance: this is called the *lesser excommunication*. *The greater* is onely of refractary & desperate persons, who will be subject to no discipline, make no amends, return to no goodnesse, and forsake no sinne. These the Church throws out from her bosome, and shakes the fire from her lap, and quits her self of the plague: and this is called the *greater excommunication*, or the *anathema*. *Both these are bound by the Ecclesiastical power*: but the first is bound that he maybe purged of his sins; the second, that the Church maybe purged of him. The first is bound as a man is tied fast that he may be cut of the stone; the other is bound as a Criminal that is going to execution: he is bound that he may be thrown into outer darknesse. Not that the Church hath power to damne any man, but when she observes a man confirm'd in impiety, she does antedate the Divine judgment, and secures the sound members, and tells what will befall him in the day of judgment. In the first case, the penitent is like a wandring sheep; in the second he is turn'd a goat or a woolf;

& by their own acts also as well as by the power of the Keyes they are both bound: the first consents to the Medicin, and the reprobate hath by his own act incurr'd that death which the Church declares; and both are acts of discipline, and directly or indirectly consequent to that power which Christ hath given to his Church of binding and loosing, and to the charge of the conduct of souls.

2. These two are by the fifth *Roman* Synod under *Symmachus* distinguish'd by the names of *excommunication* (meaning the lesser) and *anathema. He that breaks the decrees of this Synod, let him be depriv'd of the Communion: but if he will not amend, anathemate feriatur, let him be anathema.* The same we find in the Synod of *Turon. c.* 25. which commands that all the curses of the 108 [alias 109] Psalm be cast upon Church-robbers, *ut non solùm excommunicati, sed etiam anathematizati moriantur; that they may die not onely excommunicate, but anathematiz'd. They which are never to be restor'd to the Communion, but are to be accurs'd*; so *Agapetus* expresses it in his 6th Epistle. This is called *eradication*; while the lesser excommunicates are still members of the Church, as S. *Austin* notes.

Hom. 50. in Psal. 101.

3. There is yet a third sort of excommunication, brought in by zeal and partiality, a willingness to rule or to prevail; which is no part of the power given by Christ, but taken up as it happen'd; it is no part of Jurisdiction so much as improper, not an act of the power of the Keyes: and that is a refusing to communicate with him who is not excommunicate, a punishing one whom we have no power to punish, a doing that which we have no power to doe at all, or to such a person over whom confessedly we have no authority or jurisdiction. For when this humor was got into the manners and customes of the Church they made a new distinction; and there was a *communio cum fratribus*, and a *communio cum omnibus Christianis*. He that might communicate with the people might not in some cases communicate with the Priests and Bishops his Brethren. The distinction we find in the 45. Chapter of the Council of *Auxerre*, and in pursuance of it we find one Bishop refusing to communicate with another. Thus if a Bishop came not to the Synod of his province it was decreed in the fifth Council of *Carthage*, *ut Ecclesiæ suæ communione debeat esse contentus, that he should onely communicate with his own Diocese.* The like to which we find in the second Council of *Arles can.* 19. in the Council of *Tarracon can.* 6. and the Council of *Agatho* cap. 35. Thus *Epiphanius* Bishop and Metropolitan of *Cyprus* refus'd to communicate with the Bishop of *Jerusalem*, who was not his suffragan.

Can. 10.

Vide distinct. 18. cap. placuit. &c. si quis autem, & cap. si quis Episcopus.

4. Concerning which way of proceeding, 1. it is evident that there is no authority in it, or any thing that is like to jurisdiction, and 2. sometimes there may be duty, but 3. most commonly there is danger. 1. * There is evidently no authority: for if the authority were competent and the cause just, they might proceed to excommunication. But this was sometimes done by equals to equals, as by Bishop to Bishop, by Church to Church, as by *Victor* to the Churches of *Asia*, by *Stephen* to the Churches of *Africa*, and by angry or zealous Bishops to them that were not of their humor or opinion. Sometimes it was done by inferiors to their superior, the people withdrawing themselves from their pastor; so the *Samosatenians* refus'd to communicate with their Bishop that was thrust upon them after the expulsion

expulſion of *Euſebius*. So that evidently in this matter there is no authority to verify it.

5. 2. Sometimes there may be duty: as if a Biſhop be a heretic or an open vitious perſon, his Brother that is a Biſhop may uſe that liberty to him as the people might doe to a Brother that walks diſorderly; that is, withdraw from his ſociety, that he may be aſham'd: and if his communicating with him will give countenance to his hereſy, or offence to his people, he is bound then to abſtain and to refuſe it: and ſo is the people tied not to communicate with their Prieſt or Biſhop, if the condition of his communion be a ſin, or the countenancing of a ſin. And thus we find in the Annals of *Spain*, that a daughter of an *Arrian* King of *Spain* ſuffer'd death rather then receive the Communion from the hands of an *Arrian* Biſhop. In her caſe her refuſal was duty, and her ſuffering was Martyrdome, becauſe her Father impos'd his command of communicating with the heretical Biſhop as a ſecret allowance of the hereſy, which in that caſe ſhe was to refuſe, and obey God unto the death.

6. But when this does accidentally become a matter of duty, the charity of our communion is no further to be refus'd then we are oblig'd by our duty; we are not to refuſe it to that perſon, but for that cauſe, and therefore in other caſes & upon all other accounts we are tied to doe the charity of Chriſtians. I will not communicate with a *Roman* Prieſt in his worſhip of Images, or in his manner of Praying for the dead, or invocation of Saints; but I may not refuſe to ſay the Lords Prayer and the *Credo* with him, unleſſe by chance it give offence to ſome weak uninſtructed perſon. I will not receive the Communion from the hands of him who was ordain'd by a Presbytery without a Biſhop; becauſe his hand is a dead hand, and reaches me nothing: but *becauſe he is my Brother*, I will not refuſe to give him the Communion if he will require it at my hand, which was made ſacred by the Holy Ghoſt invocated by the prayer and the lifting up of the Biſhops hand. I will not come to their Communions; but if they would uſe good formes of Liturgy, and preach well, I would not refuſe to communicate in ſuch aſſemblies: unleſſe (as I ſaid before) I be accidentally hindred by ſome other duty drawing me off a while.

7. But then thirdly, when it is not an expreſſe and a clear duty, it is alwayes a great danger, an occaſion of ſchiſms and diviſions in the Church, and conſequently may be an infinite breach of duty, a certain violation of one vertue, for the uncertain preſervation of another: it is commonly the daughter of ſpiritual pride, an accounting of our ſelves more holy then our Brethren, whom by ſuch meanes we oftentimes provoke to jealouſies and indignation; and ſo ſometimes altars are erected againſt altars, and Pulpits turn to cock-pits, and ſeates of ſcorners and of proud and illiterate declamations. Upon this account Chriſtendome hath bled for many ages. The diviſion of the Eaſt from the Weſtern Churches, and in the Weſt the diviſion of *Rome* from divers Churches, the Proteſtants and Reformed, came in at this door; while one Church either pretends the ſingularity of truth, or the eminency of authority over other Churches: by which two things the Church of *Rome* hath been author of the permanent and greateſt ſchiſms of Chriſtendome. For indeed little better can be expected when the Keys of the Church, which were given for the letting in or ſhutting out

of

of ſingle criminals or penitents reſpectively, are us'd to oppoſe multitudes. A man may lock his chamber-door, but he cannot put a lock upon the Ocean: and it was wiſely ſaid of S. *Auſtin*, that *to excommunicate a ſingle perſon cannot make a ſchiſm, unleſſe the multitude favour him*; intimating that a multitude is a dangerous thing to be involv'd in cenſures. *The King nor the people are not to be excommunicated*, is an old Rule. For if the whole multitude be excommunicate, with whom ſhall we communicate? if great parts of them be, they plainly make a ſchiſm, if they unwillingly ſuffer the cenſure; and therefore that one Church ſhould doe this to another is very hardly poſſible to be done with wiſedome, or charity, or neceſſity. For when S. *Paul* bad his flock to abſtain from the ſociety of fornicators, he told them he meant it onely in the ſmal numbers of the Brethren, where, it may be, one or two in a Dioceſe or city of that religion might be criminal; for he would not have them to *goe out of the world* to keep that Canon, and therefore meant not to involve the multitudes of fornicators which were in the world. But now he that excommunicates a Church, either does nothing at all, or he obliges every one in that Church to ſeparate from that multitude; and then if he muſt not goe out of the world, he muſt goe out of that Country, which no ſpiritual power can command, and which the Apoſtle never did intend, as appears in his caution and the whole Oeconomy and reaſon of that Canon.

Contr. Epiſt. Parmen. l. 3. c. 2.

8. But I am to adde this alſo, That there is ſcarce any caſe practicable in which, if it be indifferently permitted to the people to ſeparate from the communion of their ſuperior, it will not very quickly proceed to miſchief and become intolerable; a remedy worſe then the diſeaſe. When *Neſtorius* had preach'd theſe words, *whoever ſhall ſay that the Virgin Mary is the Mother of God, let him be accurſed*, the people had reaſon to be offended; but they did ill when they made a tumult: for when the people are ſtirred, zeal is the worſt thing about them. Thus when the two Deacons of Pope *Vigilius* were diſpleaſed with their Biſhop in the cauſe of the three articles which the Pope had condemn'd in the fifth General Council, they very pertly withdrew themſelves from his communion; and the effect of it was, that almoſt all the *Roman* Church and divers other Weſtern Churches did ſo: and ſo did the people of *Iſtria* to their Biſhops in the ſame cauſe, and ſo did many more: and the evil grew ſo great, when every one would as he pleas'd withdraw himſelf from the communion of their Biſhop or Prieſt, that it was under great penalty forbidden by the eighth Synod the tenth Chapter.

S. Cyril. Ep. 18. ad Cæleſtinum.

Paulus Diacon. de geſt. Longob. lib. 3. c. 12.

9. But this may be done in theſe following caſes.

1. When the ſuperior hath manifeſtly erred in faith, that is, in an article of his Creed, or a plain propoſition of Scripture, or in an article eſtabliſhed or declar'd by that authority which hath bound him and them equally, and in which they conceive no error. Thus the Prieſts and people of *Conſtantinople* withdrew themſelves from the communion of *Eunomius*, becauſe he erred in an article determined by the whole Church, and eſtabliſhed by the laws of Emperors, and as they believed clearly declar'd in Scripture. But when *Plato* the Monk withdrew himſelf from the communion of *Taraſius* the Patriarch of *Conſtantinople* becauſe he refus'd to excommunicate the Emperor, it was an inſolence fit to be chaſtis'd by the rod of Eccleſiaſtical diſcipline.

Theodoret. lib. 4. c. 14.

Baron. A. D. 795.

2. Prieſts

10. 2. Prieſts may withdraw themſelves from the communion of their Biſhop, and people from the communion of their Prieſts, in things declar'd by laws to be againſt the peace of God and the Church, when the fact is evident and notorious. But this is not to be done by ſingle perſons, but by the whole community: and the reaſon is, becauſe the fact is not evident, or not ſcandalous to that degree as to deſerve this canonical puniſhment, unleſſe the congregation be offended, or the congregation note it; for though the Biſhop be more publick then any ſingle perſon, yet he is not more publick or of more concernment then all his Dioceſe. Theſe particulars, that is, this leave and this caution I have from *Origen*, explicating in what ſenſe we are bound to cut off our right hand. *Ego qui videor tibi manus eſſe dextra, & Presbyter nominor, & verbum Dei videor prædicare, ſi aliquid contra Eccleſiaſticam diſciplinam & Evangelii regulam geſſero, ita ut ſcandalum tibi Eccleſia faciam, in uno conſenſu Eccleſia conſpirans excidat me dextram ſuam, & projiciat à ſe. If I that am thy right hand, and preach the word of God, doe any thing againſt the diſcipline of Gods Church and the rule of the Goſpel, ſo that I give offence to the whole Church, let the whole Church conſenting together cut me off and throw me away.* in Joſu. Hom. 7.

11. 3. But all this is to be underſtood to be done by permiſſion or authority of the Prince, in caſe he ſhall interpoſe, becauſe where publick diviſions and breach of peace are in agitation, the Common-wealth is more concerned oftentimes then religion; and therefore where the laws of God doe not intervene, the laws of the King muſt, or the whole ſeparation is a ſin. And therefore we find that when *Gregory* the firſt, Biſhop of *Rome*, had thus refus'd to communicate with *John* Biſhop of *Conſtantinople*, he was commanded by the Emperor *Mauritius* to communicate with him. And it is very fit that ſuch heats and private judgments and zealous, but unneceſſary, proceedings ſhould be kept from inconveniences by ſuch publick perſons who are to take care of peace and of the publick. For if ſuch ſeparations be not neceſſary, they are not lawful; and if they be not the onely way to avoid a ſin, they are a ready way to commit one. For becauſe every mans cauſe is right in his own eyes, when ſuch heats as theſe happen between confident perſons, every man is judge in his own cauſe; and what is like to be the event of ſuch things, all the world can eaſily imagine.

12. But now concerning thoſe other two proper kinds of excommunication, the greater and the leſſer, they have the ſame conſideration, if we mean them according as the Church now uſes them; that is, if they be impos'd upon men againſt their will. For as for the leſſer excommunication, ſo as it was us'd in the Primitive Church, and ſo as the Church of *England* wiſhes it were now reſtor'd, when penitents came and ſubmitted themſelves to the diſcipline of the Church, and had exerciſes, ſtations and penitential times allotted to them, and were afterwards with joy and comfort reſtor'd to the peace of the Church, it is a miniſtery done by conſent, and without any evil, and no man hath to doe with it. But if the conſent of the Criminal be not in it, the Biſhop cannot compel him; but the Biſhop and the King can. And therefore we find that the Emperors made laws in this very particular; and *Juſtinian* in his 123 *Novel* commanded that no Eccleſiaſtic perſon ſhould excommunicate any one, unleſſe the cauſe were firſt approved. Which law was commended by the Council of *Paris* under *Ludovicus*; and by *John* the 8th, who upon the authority of that law

law inhibited ſome Biſhops from excommunicating one *Bichertinus*.

13. By this I doe not mean to ſay that the Eccleſiaſtical judge hath not power to deny a Criminal the peace and communion of the Church, by declaring him to be unworthy to communicate; but becauſe as the laws and as the cuſtomes of the world are now, there is diſgrace, and there is temporal evil conſequent to ſuch Eccleſiaſtical ſeparations, the Biſhop can be reſtrain'd in the actual exerciſe of his ſpiritual authority, if there be any thing in it of temporal concernment.

14. And therefore if the Biſhop did excommunicate any of the Princes ſervants, or any whom the Prince had a mind to communicate and converſe withall, the cenſure was to be revers'd; *ut quod principalis pietas recipit, nec à ſacerdotibus Dei alienum habeatur*, as the Fathers of the 12th Council of *Toledo* did decree; that what the piety of the Prince does receive, the Biſhops may not reject. For to avoid the company of any perſon is an effect of excommunication indeed, but not inſeparable: and becauſe to converſe with any of his ſubjects is a right of Kings that none of his Biſhops can deveſt him of, the Biſhop can excommunicate no man without the Kings leave; that is, he cannot ſeparate him from the ſociety of the faithful. And therefore *Ivo* Biſhop of *Chartres* juſtified himſelf upon this account for converſing with one *Gervaſius* that was excommunicate. *Pro Regia enim honorificentia hoc feci fretus authoritate legis, ſi quos culpatorum*, &c. I did it (ſaith he) relying upon the authority of the law, and for the honourable regard of the King. And this he adviſes to others alſo, in his 171 Epiſtle: and S. *Anſelme*, though he was extremely troubled with the Popes peeviſh injunctions againſt the King of *England*'s right in the matter of Inveſtitures, yet in his Epiſtle to Prior *Ernulph* he gives leave that though he durſt not by reaſon of the Popes perſonal command to the contrary, yet they might communicate with thoſe whom the Pope had excommunicated for receiving Inveſtitures from the King. Now although this appendage of excommunication, that is, abſtention from the civil ſociety of the Criminal, is wholly ſubject to the lawes and power of Princes; yet the ſpiritual part of the excommunication, that is, a ſeparation from the communion by declaring ſuch a perſon to be unworthy, and uſing to him the word of his proper miniſtery, is ſo wholly under the power of the Eccleſiaſtic order, that when the King commands that the company of the excommunicate ſhould not be avoided, yet the man is not abſolved from his ſentence in the Court of Conſcience, but is bound to ſatisfy the Church if ſhe have proceeded legally and canonically. The King can take off the temporal penalty, but not the ſpiritual obligation; that is, the man is not to demand the Sacrament till he be abſolved. If the King commands it, the Biſhop muſt not deny his externall miniſtery: but the man ſins that demands it, becauſe he communicates unworthily, that is, by a juſt power, but not by a juſt diſpoſition. He muſt repent of his crime before he can come innocently.

Cap. 3.

Epiſt. 61.

15. For it is to be obſerved that in this affair one part concerns the Criminal, and another concerns the people. The Criminal is bound to abſtain from the communion: that duty is incumbent upon him, becauſe he is judg'd to be unworthy of it by that authority which he is bound to truſt, in caſe there be no apparent error. But to be thruſt from civil ſociety is not

not directly any duty of his, but is incumbent on the people. Now though the Biſhop can in ſome caſes adviſe this, yet in a Chriſtian Common-wealth he cannot without leave command it: and therefore the cenſure or judgment of the Church is to have effort upon the Conſcience of the guilty, and this invades no mans right; it is for his good that is concerned, and is wholly a ſpiritual power, and intrenches not upon the civil right of any man, much leſſe upon the publick and ſupreme power. * In the leſſer excommunication, if the ſubjects be not voluntary, or be not ſubjected by him that hath the power over them, that is, the King, they cannot be compell'd by the Biſhop to any external act or abſtention. But if they doe themſelves ſubmit, or are ſubmitted by their ſupreme, they are bound not onely to obey the cenſure of the Church, but themſelves to goe away from company that know not of this calamity: as I have * already inſtanc'd.

* Chapt. 2. Rule 2. Num. 15.

16. 3. The ſentence of the greater excommunication, though to be eſtimated in many particulars by the former meaſures, yet hath in it ſomething of particular conſideration. This is the great *Anathema Maranatha*, the exciſion of a man from the body of the Church; without which body, whoſoever is in that manner juſtly ſeparate, there is no ſalvation to him: and this the Church called by the name of *anathema*. Not that whenever the word *anathema* is us'd, the greater excommunication is ſignified; for it is very often us'd as an earneſt expreſſion of the diſlike of a thing: ſo the Clergy of *Edeſſa*, when they purg'd their Biſhop *Ibas* of the Crimes objected to him in the Council of *Chalcedon*, they ſolemnly proteſted they knew no evil of him, *anathematizantes noſmetipſos, & terribili gehennæ noſmetipſos obnoxios facientes, ſi novimus, anathematizing themſelves and expoſing themſelves to the guilt of eternal damnation if they knew any ſuch thing.* Such *anathemata* are denounc'd againſt ſacrilegious perſons in the donatives made to the Church: and thus divers Councils doe pronounce *anathema* to falſe propoſitions, and *Juſtinian* in the Code uſes the ſame execration againſt certain hereſies. Now to ſuch an *anathema* as this all perſons can be ſubject, Kings and Princes, Biſhops and Prieſts, Multitudes and ſingle perſons. There is nothing conſiderable in this, but that the cauſe be great and worthy: for whoever he be that works abomination, let him be who he will, yet he is *abominable*, and ſhall be ſeparated from the communion of Saints in the day of the *New Jeruſalem*.

Act. 10.

Cod. de ſumma Trinit. l. 1.

17. But the inquiry that remains is concerning the great *anathema* or exciſion of obſtinate criminals from the body of the Church, which is the onely excommunication that Chriſt gave in commiſſion and warranty. For ſo the Fathers expound thoſe words of Chriſt, *But if he will not hear the Church, let him be unto thee as an heathen and a publican*; that is, not to be eſteem'd for a Brother, or a Chriſtian, ſaith S. *Gregory*; *quia neque influxum habet à capite, neque participat de Spiritu Chriſti*, ſaith S. *Auſtin*, *he neither hath any influence from the head, nor partakes of the Spirit of Chriſt.* This man the Church does not pray for, does not pray with, does not communicate, does not hope well of; he receives no aſſiſtance and gifts of grace from the holy Spirit of God: and S. *Jude* ſayes, his works are *gone aforehand unto judgement. Videlicet peccator gravis & ſcandaloſus, notorius, aut accuſatus & convictus, he who is a grievous and a ſcandalous ſinner, notorious or convict, being prov'd by the Biſhop in the publick aſſemblies*

in Pſal. 5. pœnit. in it. Tract. 27. in Johan.

of the Church, if he will not be humbled, but remains incorrigible and perſeveres in his ſcandalous ſinnes, tum anathemate feriendus eſt, & à corpore Eccleſiæ ſeparandus, then he is to be ſmitten with the anathema, and to be ſeparated from the body of the Church: ſo S. *Gregory*. To this there is nothing elſe conſequent, but that the man, unleſſe he timely and mightily repent, will be damned; and in the mean time that every man account him to be no Brother, and have no entercourſe with him, but as with a Turk or a Jew.

ubi ſupra

18. Now concerning this, he that is in Eccleſiaſtical authority, and hath received the holy order, hath this power; and he that hath a charge can miniſter this power: and ſo long as nothing temporal and ſecular is mingled with it, the Biſhop can doe it wholly by his ſpiritual authority; and in this he does nothing depend on the ſupreme Civil power, ſave that he be permitted to exerciſe his ſpiritual office. For though it be true that any Biſhop can by the Civil power be hindred from miniſtring in publick aſſemblies, for he may be baniſhed or depos'd, and another put in his chair, or all his offices maybe ſuſpended *quoad exercitium actus* (as the Schools ſpeak) ſo that he may not exerciſe his power; yet a Biſhop that hath a flock, that is permitted actually to doe what Chriſt hath impower'd him to doe, can by his own ſole authority inflict this ſentence upon ſcandalous and refractary, diſobedient and impenitent, rebellious and perſevering ſinners: and if the Church could not doe this, ſhe had not power ſufficient to the ends of her deſignation; ſhe were no body politic, but without government and power; and all that diſcourſe of our Bleſſed Saviour in the 18th of S. *Matthew*, and his commands of delating refractary Criminals to the Church, & the promiſe to verify in heaven what they ſhall reject on earth, were words ſignifying nothing and of no effect. But becauſe no wiſe man will imagine that it muſt follow that the Eccleſiaſtic ſtate, they to whom Chriſt promiſed to give the keyes of the Kingdome of heaven, they who are Stewards of the houſhold and diſpenſers of the myſteries of the Goſpel, have this power ſubjected in themſelves independently from the Civil power, as they have a power to baptize, and to conſecrate, and to ordain Miniſters of religion; and they can no more be hindred from one then from the other; they may *de facto*, and they may by a competent power, but if they be, it is perſecution. That this Biſhop or that, that *Cyprian* or *Silveſter*, that *Valerius* or *Auguſtine* ſhould be the man, is under the power of the Civil Magiſtrate; but the man that is permitted to uſe the powers Chriſt put into his hand, can upon perſons ſo diſpoſed pronounce God's *anathema* and the Churches.

Matth. 18. 15, 16, 17, 18.

19. Now the reaſon of the difference why the Biſhop cannot doe this in the leſſer excommunication, and yet can in the greater, is this, becauſe the greater is of Divine inſtitution, and the other is of humane, never us'd but by conſent, or by a ſuperinduc'd civil authority, and therefore muſt ſtill depend upon the cauſes of it's being. Adde to this, there is a precept annexed to this power: there is a double duty; the Biſhop is to ſeparate the vile from the precious, the leprous from the ſound, and the people are to take heed of ſuch impure mixtures. But in the leſſer excommunications there may poſſibly be ſomething of prudence; yet as there is no proper authority in the Eccleſiaſtical ſuperior but what is given him by conſent, ſo there is no obligation or duty in the ſubjects: it is well when they ſubmit

to

to this diſcipline, and goe to be cur'd by the publick hands even for every malady; but they are not bound to this: but if they be delated or be notorious and great Criminals, here the Church is warranted by God to proceed to diſcipline, and to ſeparation and exciſion of the refractary. This onely hath effort upon the ſoul; but the leſſer excommunication is a diſcipline of Eccleſiaſtical inſtitution; and ſo is that *denying of communion* to equals or ſuperiors, and ſo is *irregularity*, and ſo is *refuſing to mention a name* in our collects and publick or private prayers, and ſo is *ſuſpenſion* and *interdict*, *degradation* and *depoſition*: they are all of Eccleſiaſtical poſitive conſtitution, no part of the power of the Keyes, nothing of Divine authority; but are introduc'd by the conſent of Churches, and verified by cuſtome, conſent and the laws of Princes, and ſo come accidentally to paſſe an obligation, but effect nothing directly upon the ſoul. That is a peculiarity of the greater excommunication: and that which ſtands next to it is the leſſer excommunication; which although it be *humanum inventum* and of poſitive inſtitution, yet becauſe it is a part of the greater, and proceeds in the ſame way, upon leſſer cauſes, but to deſignes of charity and edification, it is an uſe of the ſpiritual ſword, it is the lancing of a ſore, but not the cuteing off a dead part; but it may be admitted to be a conſequent of the power of binding or looſing, and ſo I have already call'd it*. For it is a part of that intermedial monition which Chriſt hath in general commiſſionated his Miniſters and guides of the Church to make. If an offendor will not mend by private, and by a more publick admonition, *tell it to the Church*; then the Church is to doe ſomething when the ſtubborn criminal is delated to her. The Church muſt try if he will repent upon her monition: for then the Eccleſiaſtical Rulers are to exhort him into repentance, to reprove, to correct, to doe what ſpiritual Fathers ought to doe: the particulars of which becauſe they are not ſpecified by our Bleſſed Lord, they are left to the prudence of the Eccleſiaſtical Governours; ſo that the general Diſcipline is warranted, but the particular is left to their choice who by the analogies of the conſequent power of the Keyes can proceed by leſſer and an intermedial proceſſe. But the power of the Keyes is given in order to ſomething that is to be done afterwards. For that is onely the warranted and expreſſe authority, and that which imitates coercitive jurisdiction the neareſt, that thoſe be cut off from the Church who by their voluntary ſubmiſſion will not amend and ſubmit to the paternal rod & gentle correption.

* Numb. 1. of this Rule.

RULE IX.

Excommunication inflicted upon a light cauſe binds externally, but not internally; but if it be inflicted upon an unjuſt cauſe, it binds not at all.

1. THis latter part of the Rule is evident and conſented to by all. For in this the Civil and Eccleſiaſtical power differ. The Civil power, if it condemns the Innocent, hath effect upon him, and does afflict or put him to death: But the Eccleſiaſtical power does nothing, unleſſe the man hath done the miſchief to himſelf. For God having undertaken to verify what the Church does, it muſt be ſuppos'd that the Church muſt doe right, elſe

God will not verify it; and then it ſignifies nothing, but that the Governours Eccleſiaſtical have ſinn'd. *Ejiciunt oves qui contra juſtitiam de Eccleſia ſeparant*, ſaith S. *Hierom*, *They that againſt right caſt a man from the Church*, they are ill ſhepherds, and *drive the ſheep from their folds* where Chriſt loves to ſee them: and therefore *Alexander* the ſecond 24. *q.* 1. *c. Audivimus*, ſayes that *unjuſt excommunications are not to be ſlighted and neglected*; and *Gerſon* ſayes, *it is honorable to the Church that ſuch a Prelate ſhould be reſiſted to his face.* But this in caſe of injuſtice and manifeſt abuſe: ſuch are thoſe excommunications in the *Bulla cœnæ Domini*, n which thoſe perſons who doe their duty, who doe not conſent to the errors and abuſes of the Church of *Rome*, who read good books that diſcover their horrible impieties, are excommunicated: it is *Brutum fulmen*; it is harſh as the noiſe of peacocks, but does no more harm to them that are intended.

in Jerem. c. 23.

De vita ſpirit. an. lect. 2. ad em.

2. But now in the other part of the Rule there is difficulty, and it is occaſion'd by a diſcourſe of S. *Leo* in his 93. Epiſtle; *Let not the Communion be eaſily or lightly denied to any Chriſtian, nor at the pleaſure of every angry Prieſt; becauſe the mind of the avenger ought unwillingly and with a kind of grief to proceed to the infliction of vengeance even upon a great guilt. For we have known ſome for ſlight actions and words excluded from the grace of the Communion, and a ſoul for which the bloud of Chriſt was ſhed, by the infliction of this ſo ſevere a puniſhment wounded, and as it were diſarm'd and ſpoil'd of all defence, expos'd to the aſſaults of the Devil, that it might be eaſily taken.*] By which words S. *Leo* ſeems to ſay that he who for a trifling cauſe is excommunicate, does nevertheleſſe feel all the evils of that greateſt cenſure. He ſayes well and true: But he does not ſay that he is ſeparate from God, that he ſhall periſh everlaſtingly, that God will in heaven verify what is done upon earth; but he reproving this impiety, that the greater excommunication ſhould be inflicted for trifles, tells the real evils which doe follow: for the excommunicate being ſeparate from the communion, denyed the prayers of the Church, baniſh'd from the communion of Saints, is deveſted of all theſe excellent helps and ſpiritual defenſatives againſt the power of the Devil. Now this is very true, though the cauſe were wholly unjuſt; and much more if the cauſe be ſomething, though not ſufficient. *De facto* the man is depriv'd of the helps of the Church, and the advantage of holy Ordinances: and though God will, if the man be a good man and devout, hear his private prayers, and ſupply him with ſecret ſtrengths, and in his behalf rebuke the Devil; yet it was a worthy cauſe of complaint in S. *Leo*, to conſider that this evil was done for little things, and that for ſo ſmall occaſions God ſhould be put to his extraordinary way, and the man be depriv'd of the bleſſings of the ordinary.

Tract. 6. in Matth.

3. But whether this ſentence ſo ſlightly inflicted doe really bind the ſoul before God, is a queſtion which *Origen* inquir'd into, but durſt not affirm it; but concludes that it obliges in the Church and before men: for whether it obliges before God or no, *Deus ſcit*; *nos autem pronunciare non poſſumus, ſecundum quod ſcriptum eſt, Nolite judicare*] God onely knows, but we muſt not judge. But yet if it be his unhappy lot to fall into ſuch a calamity, *factum valet, fieri non debuit*; the eccleſiaſtical Ruler did very ill in it, yet the man is bound to the Church. *Qui ergo in peccato levi correptus ... non ſe emendat, nos quidem ſic eum debemus habere quaſi publicanum & ethnicum, abſtinentes ab eo, ut confundatur,*

He

He therefore that is taken and excommunicate for a small fault, and will not amend, we must esteem him as a Heathen and a Publican, that he may be ashamed. Indeed the Church hath put a heavy and an unequal load upon such a person, and hath erred greatly; for no man is to be separate from the Church of God, but he that separated himself from God, and hath left his duty: but therefore if the Church doe excommunicate him whose action or words though it be faulty, yet it can consist with the state of a good man, and does not destroy the love of God, the censure was too heavy as to the external, and false as to the internal; for the man is not fallen from God, but does communicate with the Head, and continues to receive of the Spirit of Christ.

4. But yet even such a man is bound externally: for this is the meaning of that famous saying of S. *Gregory, Pastoris sententia etiam injusta timenda est, The sentence of a Bishop though it be unjust is to be fear'd*; that is, though it be in a cause that is not great and competent enough, but if it be in a light matter, yet it is to be feared; not onely because the man is depriv'd of the prayers and communions of the Church (which though it happen to an innocent person is a great evil, and therefore is to be fear'd, though it be in all senses unjust) but also because it binds the man that is deprehended even in a light fault, to submit to the judgment and satisfactions of the Church. The burden is very great, and ought not to have been impos'd; but when it is it must be suffer'd, because no repentance can be too great for any sinne: and although the Bishop made a false judgment concerning the man, and he does not stand so before God as before the Church, that is, for his first little offence; yet being censur'd and unfortunate, if he refuses to obey that which is indeed too much to be impos'd, but will doe him no hurt, it is not his first little sin, but his great contempt that is to be accounted for before God with the greatest severity. In Evangel. Homil. 26.

5. But then if it be inquir'd in what cases onely excommunication may be lawfully inflicted; the answer is easy: but I chuse to give it in the words of the Fathers, because there is in this case reason and authority too. *Ubi peccatum non est evidens, ejicere de Ecclesia neminem possumus, ne forte eradicantes zizania, eradicemus simul cum ipsis etiam triticum:* So *Origen. Unless the fact be evident, no man must be excommunicate, for else we may peradventure root up the wheat with the tares.* But that's not enough. In Josue. Homil. 21.

6. 2. No man must be excommunicate but he that is *peccator gravis & scandalosus, a grievous and a scandalous sinner*; so S. *Gregory*: and like to this is that of *Aristotle*, Διαλυτέον οὐ πᾶσιν, ἀλλὰ τοῖς ἀνιάτοις διὰ τὴν μοχθηρίαν, We must not separate from every sinner; but from the intolerable and malicious. For what should a man proceed to violent remedies, when a gentle application will make the cure? and for a trifling cause to cut a man off from the communion of the Church, is to doe as the man in the fable, that espying a fly upon his neighbours forehead, went to put it off with a hatchet, and struck out his brains. And therefore the Fathers in the Council of *Worms* can. 2. decreed, *Ut nullus Sacerdotum quenquam rectæ fidei hominem pro parvis & levibus causis à communione suspendat: præter eas culpas pro quibus antiqui patres arceri jusserunt aliquid committentes.* In the infliction of Censures the Church should follow the practice of the primitive Fathers, excommunicating no true believer but for some very grievous fault. In 5 Penit. Psal.

7. 3. Neither is this ſufficient of it ſelf: a ſcandalous ſin alone is not enough, for excommunication is the laſt remedie. *Omnia prius tentanda quam bello experiendum*; when nothing elſe will doe it, then this is to be us'd: for if the man will be amended by private correction, or by publick admonition, if he be ready to hear his brother, or to obey the Church, why ſhould he be eſteemed as a heathen man and a publican? *Si non audierit eccleſiam*, is the condition of uſing the keyes; *if he will not hear the Church:* ſo it is in the Charter, if being publickly convict and reprov'd by the Biſhop, he will not be humbled, but remains incorrigible and perſeveres in his ſin, then he is to be excommunicated and ſmitten with the anathema. Like to this is that of *Chryſippus*, τροπὴν τὰ μὲν ὅλως ἀποκεκινῆσθαι, τὰ δὲ μικρὰς ὑπεκφυγὰς τυγχάνειν· τὰ δὲ ὅτι μᾶλλον, τὰ δὲ ὅλως διαλύσεως ἀξιοῦσθαι. Some things are to be turned from, with our head a little aſide; and from ſome things we muſt run away. Some things are more earneſtly to be avoided; and from others we muſt be parted for ever. So S. *Gregory* in the place above cited. *Spirituali gladio ſuperbi & contumaces necantur dum de Eccleſia ejiciuntur*, ſo S. *Cyprian*, *The proud and the contumacious are ſlain by the ſpiritual ſword when they are thrown out of the Church.* *Inobediens truncatur*, is S. *Hierom's* expreſſion, He that is rebellious or diſobedient to the diſcipline and correction of the Church, he is to be cut off.

Lib. 1. ep. 11.

Epiſt. 1.

8. Now all theſe muſt be joyned together. If the fact be not notorious or prov'd, a man muſt not be ſo ſeverely ſmitten we know not why. And if the fact be evident, yet unleſs it be great, it deſerves not the biggeſt puniſhment. For the judge is cruel, and not juſt, that puts a man to death with torments for ſpitting in his parlour: and the judgment of the Church being nothing elſe but an effective and terrible declaration of the judgment of God, muſt not be exterminating and final for things of little concernment, but according to the wiſedome which we ſee, and the mercy which we hope for. And after all, if it be evident and great, yet the laſt remedy muſt not be us'd at firſt; and a man will not have his arm cut off for a felon upon his finger, or the gout in his wriſt, or an ulcer that can by any other means be cur'd. But when in a great peſtilence and danger of infection there is no other remedy; when the fire rages deſperately, and can by no other means be ſtopp'd; then pull the houſe down, and ſeparate the infected from the city; he is fit for nothing but charnel-houſes, and the ſociety of the dead.

9. 4. This caution *Gerſon* inſtances in pecuniary matters. For (ſaith he) not every contumacy againſt the orders of Courts Eccleſiaſtical is to be puniſh'd with this death. If it be in matters of faith or manners, then the caſe is competent: but when it is a queſtion of money and fees, beſides that the caſe is full of envy and reproach, apt for ſcandal and to bring contempt upon the Church, the Church hath no direct power in it; and if it have by the aide of the civil power, then for that a civil coercion muſt be us'd. It is certainly unlawful to excommunicate any man for not paying the fees of Courts; for a contumacy there is an offence againſt the civil power, and he hath a ſword of his own to avenge that. But excommunication is a ſword to avenge the contumacy of them who ſtubbornly offend againſt the diſcipline of the Church in that wherein Chriſt hath given her authority, and that is in the matters of ſalvation and damnation immediate, in ſuch things where there is no feculur intereſt, where there

De vita Spirit. anim. lect. 4. corol. 7.

there can be no diſpute, where the offender does not ſin by conſequence and interpretation, but directly and without excuſe. But let it be conſidered how great a reproach it is to eccleſiaſtical diſcipline if it be made to miniſter to the covetouſneſs or to the needs of Proctors and Advocates; and if the Church ſhall puniſh more cruelly then civil Courts for equal offences: and becauſe ſhe hath but one thing to ſtrike withall, if ſhe upon all occaſion ſmites with her ſword, it will either kill too many, or hurt and affright none at all.

10. 5. Spiritual cenſures muſt not be inflicted for temporal cauſes, in queſtions of right and ſecular concernment, for which the civil ſword is ſharp enough and proper. In the Church of *Rome* it hath been very uſual to uſe excommunications for the diſcovery of theſts, or the manifeſtation of ſecret actions. Divers examples of which are in the *Decretals* and later Canons of the Church; but not till the Church had been extremely corrupted both in Doctrine and Manners. But this advice is the ſame almoſt with the former, and relies upon the ſame reaſon. But who pleaſe to ſee more of it may ſee it in *Gerſon de vita ſpirit. anim. lect.* 4. *Corol.* 7. *& ſerm. in Concil. Rhemenſ. partit.* 2. *conſid.* 2. *proviſ.* 2.

11. As a Corollary to theſe advices, I am to adde one thing that is of great uſe and conſideration, and that is, That when a law is made that who ever ſhall commit ſuch a fact ſhall be *ipſo facto* excommunicate, it muſt never be underſtood of the greater and proper excommunication; for if it be, it is unlawful and it is ridiculous. For the abſciſſion from the Church is not to be us'd but after all other remedies: when the crime is delated or notorious, and the perſon called, when he hath been admoniſhed and reprov'd, and called to repentance, if after all he refuſes and rebels, then he is to be cut off, elſe not: and therefore no man is *ipſo facto* cut off. The offence alone deſerves it juſt as it deſerves damnation: but becauſe God is pleas'd graciouſly to call a ſinner to repentance, and cuts him not off till he hath refus'd his gentleneſs and forbearance, the Church muſt doe ſo too, following the Oeconomy of God; for if the Church kills on earth, and God ſaves in heaven, it is clear ſhe hath not rightly us'd her power, and therefore muſt not kill at the firſt daſh.

12. If therefore it be inquired whether all ſuch ſentences in law which declare a man to be in certain caſes *ipſo facto* excommunicate be unlawful, the Arch-Bp. of *Spalato*, who is fierce againſt them, anſwers affirmatively and confidently, and diſputes well againſt them: but his reaſons are overvalued by him and are not demonſtrative; for they all rely upon this propoſition, That no man can be tied to be executioner of any ſentence againſt himſelf, which I have proved to be falſe*. * What then doe ſuch ſentences effect more then others which are comminatory, and threaten the ſentence onely to be inflicted by the Judge if the crime be delated and prov'd? *Gerſon* ſaith he learn'd thus to anſwer from his Maſter, That the Judge in ſuch caſes, when the fact is prov'd or confeſs'd, may paſs to ſentence without any further Judicial proceſs; which in other caſes he cannot doe. But *Gerſon* and his Maſter would fain have been at a new thing, but they could not hit it right. For whether any ſuch thing was effected or no, or whether any more was intended, is not a matter of conſcience; for this whole proceeding is not the miniſtery of the keyes, but wholly a

Lib. 5. de Rep. Eccleſ. cap. 9. n. 23, 24.

* Chap. 2. Rule 2.

humane invention, done with great reaſon, and is of prudent conduct, and warranted by precedents in Scripture: and ſince in thoſe places where many ſuch laws are made and us'd it is certain that the law-givers intend more, and more is practis'd, it is not true that *Gerſon*'s Maſter told him, that theſe laws produc'd nothing but a power for the Judge to proceed ſummarily. And therefore he neither anſwered right in the point of law, nor in the caſe of Conſcience; & yet he ſaid well, that ſuch ſentences of excommunication doe not oblige others to abſtain from the ſociety of the excommunicate. It is true, but not for his, or for the reaſons of the learned Arch-Bp. of *Spalato*; but for this reaſon, becauſe theſe ſentences doe not intend to involve the offender in the greater excommunication, which is not to be inflicted but upon him that hath ſinn'd grievouſly, and after admonition refuſes to amend. For if the greater excommunication were intended, the laws were unlawful, and the ſentence unjuſt. For a crime in manners is like an errour in faith: this without pertinacy is not hereſy, and that without contumacy does not deſerve excommunication. But what then?

13. Therefore all thoſe laws which inflict the ſentence of excommunication *ipſo facto* are to be underſtood of the leſſer excommunication, and they mean thus much onely, That the Church declares that all ſuch criminals are obliged to confeſſe their ſin, to abſtain from the Communion till they have truly repented, to ſubmit themſelves to the judgement of their ſpiritual guide, to receive diſcipline at his hand, and manners of emendation; and in this ſenſe the laws are pious and reaſonable, uſefull and of great effect: but how much the conſcience of the criminal is by them oblig'd is a ſecret of which we know nothing; but this we know, that where ſuch laws are us'd and underſtood, without ſuch ſubmiſſion and amends, a man that deſires to be good can have no peace of conſcience.

14. The like is to be ſaid of thoſe ancient Canons of Councils which for light cauſes impoſe and decree the ſentence of excommunication. Thus the fourth Council of *Carthage* decrees him to be excommunicate *qui ſacerdote verbum faciente in Eccleſia egreſſus de auditorio fuerit, who ſhall goe out of the Church before the Sermon be ended.* Very many of the ſame nature might be produc'd, but they all mean the ſame thing; that he that is delinquent in the inſtance when he is delated and convict ſhall be ſeparate a while from the Communion, (for that was the Diſcipline of thoſe times) and thruſt into the place of publick penitents.

Cap. 24.

Rule X.

It is not lawfull to communicate with thoſe whom the Church hath by a juſt ſentence excommunicated.

1. That is, all prohibited Communion is unlawful: as if they be driven onely from holy offices, then we muſt not admit ſuch perſons to our aſſemblies; if a civil entercourſe be prohibited, that the Criminal by ſhame might be brought to repentance, then that alſo muſt be denied him: for if he

he be bound by the censure of the Church, then we also who are the relatives of that coercion are tied to doe our duty to the Church.

2. To which purpose there is an excellent discourse in S. *Cyprian*, *Wherefore* (saith he) *although there be some of our collegues that think it fit to neglect the Divine discipline, and doe rashly communicate with* Basilides *and* Martialis, *this thing ought not to disturb our faith; since the Holy Ghost in the Psalms threatens such persons, saying, Thou hast hated discipline and cast my words behind thee: if thou sawest a thief thou didst goe with him, and wert partaker with the adulterers. He shewes that they were consorts and partakers of other mens sins who were joyned with the delinquents. But this thing also the Apostle* Paul *writes, saying, They are whisperers, backbiters, haters of God.... who knowing the judgement of God, that they which commit such things are worthy of death, not onely doe the same, but have pleasure in them that doe them. For* (saith he) *they that doe such things are worthy of death. He manifests and proves that they are worthy of death and shall come to punishment, not onely that doe evil, but they who consent to them that doe evil; who whilest by an unlawfull communication they are mingled with evil sinners, and that will not repent, are polluted with the contact of the guilty, and because they are joyned in crimes, they are not separated in punishment.* lib. 1. Ep. 4. Rom. 1. 29, 30, 31.

3. The Church having so good warrant from Scripture proceeded to adde Ecclesiastical penalties to those that would not verify her Sentences of just excommunications. For when some had got a trick to meet in houses and pray in Conventicles, because they were forbidden, or did voluntarily refuse to enter into Churches, the Council of *Antioch* took notice of it, and forbad all such communions and assemblies and entercourses under the pain of excommunication. But this was decreed by the Canons commonly called Apostolical, *Si quis cum excommunicato saltem in domo simul oraverit, iste communione privetur, He that prayes with an excommunicate person so much as privately in a house, let him be depriv'd of the Communion.* The same we find often in the Ancient Epistles of the Popes; in the [a] second and in the [b] fourth Council of *Carthage*, in the first Council of [c] *Toledo*, and in the Synod at [d] *Auxerre* in *France*, in the first Council of [e] *Bracara*, in the Council of [f] *Touraine*, and the Council of [g] *Verne*. Cap. 2. Can. 10. aut 11.

[a] Cap. 7.
[b] Cap. 73.
[c] Cap. 15.
[d] Cap. 39.
[e] Cap. 33.
[f] Cap. 8. & 21.
[g] C. 9.

4. But this is to be understood with one caution, and to be reduc'd to practice by another. 1. Although the Church excommunicates them that communicate with excommunicates, yet it is alwayes to be understood that the partners are onely smitten with a lesser excommunication, and oblig'd onely externally, not internally. For there may be many cases very favourable in which an innocent person may innocently communicate with a heathen and a publican: and therefore in such cases in which a man does not take part against, or directly or by intention despise the Church, or give countenance, strength or increment to the sin of the excommunicate, but with simplicity pursues other lawfull purposes, and designs nothing of these, he is onely tied to give satisfaction to the Church; but is not guilty before God. For the places of Scripture quoted by S. *Cyprian* above-mention'd are onely spoken of such persons who by their society approve, and in their hearts doe consent to such crimes. But every man that goes along with them in their journey or in their Merchandise, does not goe along with them in their crime; and yet if they be forbidden to goe along the road with

with them, and yet will doe it, they may juſtly be preſum'd to goe along in their conſent and approbation: and therefore the Church does well to forbid ſuch to come to her communions till ſhe be ſatisfied, that is, till the contrary does appear, or amends be made. But becauſe in many caſes the contrary can be made to appear, and in more caſes the contrary is true, whether it can be made to appear or no, therefore in ſuch caſes it muſt be underſtood, that the companion of the excommunicate is onely bound in the face of the Church by ſuch cenſures, and not in the Court of heaven. And to this accords that of S. *Leo*, *Certainly when any ſuch cauſe does happen, that for the hainouſneſſe of ſome crime committed any one is juſtly depriv'd of the Communion, he alone ought to be puniſh'd who is involv'd in the guilt; nec particeps debet eſſe ſupplicii qui conſors non docetur fuiſſe commiſſi, neither is he to partake of the puniſhment that was not a conſort of the fact.*

Epiſt. 93.

5. 2. This rule is to be reduc'd to practice with this caution, That the Church intends not to forbid any ſuch entercourſe or communion to which we ſtand preoblig'd by the law of Nature, or any law of God, or of the Civil ſupreme power, from which the Church cannot abſolve us. The ſentence of excommunication does not enjoyn a ſon not to help his aged Father, nor the Phyſician to give him phyſic in his ſickneſſe, nor the tenants to pay their rent, and talk with their land-lord about his and their neceſſities, nor the feudatary to pay homage to his lord: to prohibite Natural or Civil duties the Eccleſiaſtical power hath nothing to doe. If the Civil power hath forbidden a civil duty, he may, and then the ſubject is civilly bound in all things but where God hath commanded a duty. For even the King cannot command a wife not to pay her duty to her husband, nor a child to his mother. To theſe they are bound by God, though they die for it; and if the Prince be angry, yet God is well pleaſed.

6. For although the ſupreme power can forbid even an action that is of it ſelf good and pious, and we are in the proper circumſtances bound to obey him, and in this caſe alſo obedience is better then ſacrifice; yet when the piety is neceſſary, and not under choice and counſell, but under a Commandement, the King and the Biſhop ſingly or conjunctly have no power to forbid it.

Οὐ γάρ τι νῦν γε καὶ χθὲς, ἀλλ' ἀεί ποτε
Ζῇ τοῦτο, κοὐδεὶς οἶδεν ὅθ' ὅτι φάνη,

for theſe are things that are not of to day or yeſterday, but of an eternal rectitude, and no man knows when they did begin. For upon this account *Antigona* in *Sophocles* defends the fact of burying her dead Brother againſt the Kings commandement, Even the Gods themſelves, that is, the great Rulers of the world, are ſubject to theſe laws. So *Euripides*,

In Hecuba.

Ἀλλ' οἱ θεοὶ σθένουσι, κἀ ὦ καίνων κρατῶν
Νόμος· νόμῳ γὰρ τοὺς θεοὺς ἡγούμεθα
Καὶ ζῶμεν ἄδικα κ δίκαι ὡρισμένοι.

This law rules them that rule the world: and therefore the Greek Tragedy does rarely well call theſe laws ὑπόδικας, becauſe all men and all things are under their feet. It is, as *Pindar* calls it, ὁ νόμος βασιλεὺς θνατῶν τε κ ἀθανάτων, *a law that is the King of all things mortal and immortal.* And therefore excommunications, though verified by the ſecular power, cannot forbid the neceſſary

neceſſary and dutifull entercourſes of relations, or the iſſue of any duty commanded by a former obligation in the law of God.

7. But if the Church will take her meaſures from the words of her commiſſion, which as they are her onely warrant, ſo they are the beſt rule, the external effect of excommunication is this onely, that we eſteem him that refuſes to hear the Church as a heathen and a publican. If we account and uſe him ſo, it is bad enough; but then we have no warrant to uſe him worſe. And then as we eat and drink and talk and buy and ſell with heathens without ſin, why alſo not with *excommunicates*, this precept notwithſtanding? I ſay, *this precept* notwithſtanding, for it is more then an indulgence or a leave to uſe them ſo; it is a commandement: the Rulers and ſtewards of God's houſhold are tied to ſeparate refractary Criminals from the ſound part; and the people are bound to be ſeparate, for they alſo have a ſhare in this binding and looſing by way of conſent and compliance and verification, according to that of S. *Auſtin*, *Si fratrem habes pro Ethnico & publicano, ligaſti illum in terris; ſi correxeris fratrem, ſolviſti illum in terris.* The people are to bind and looſe, that is, to eſteem him that is bound as a heathen and a publican, and to aſſiſt in the correcting of him, by bringing him to repentance by the inſtrument of ſhame. But this being matter of office, and not merely of benefit, it is evident that it is a precept, and not a leave onely, a Commandement, and not an indulgence.

de verbo Domini, Homil. 15.

8. But then if we enquire to how much and to what manner of uſages it does oblige us, we ſhall be able to underſtand our duty beſt by conſidering that it is a proverbial expreſſion, or a form of execration, to ſignify impious and prophane perſons, of the vileſt reproach. Juſt as in the Old Teſtament, of what Nation ſoever he was, yet a ſtranger from the Covenant of God was called an *Aramite* or a *Syrian*; and when S. *Paul* ſaid that S. *Timothie*'s Father was a *Greek*, the *Syriac* interpreter calls him an *Aramite*: ſo here a heathen and a publican ſignifies a wicked and a reprobate perſon; as we call cruel people *Turks*, and in the time of the holy warre all very vile and intolerably vitious or hated perſons were called *Saracens*. *Harlots and Publicans* Chriſt joynes together; ſo *Publicans and Sinners* the ſame with *Heathens and Publicans*. Meaning that all contumacious ſinners, that upon admonition and Eccleſiaſtical correption refuſe to repent, are to be accounted enemies and ſtrangers to the rights and promiſes of the Goſpell, enemies to the religion, and ſeparate from God, and given over to a reprobate ſenſe.

Levit. 25. 47.

Matth. 21.

9. But it cannot be inferred from hence that the ſame uſage which the Jews gave to Heathens and Publicans, we are tied to have towards excommunicates. That we muſt have no worſe is certain, but not ſuch, not ſo bad, is alſo very true; becauſe our Bleſſed Saviour did not even amongſt them approve of thoſe harſh and contemptuous uſages; μὴ συγχρῆσθαι, κολλᾶσθαι, συνεσθίειν, προσέρχεσθαι, they would not eat, nor drink, nor trade, nor come to them.

Non monſtrare vias eadem niſi ſacra colenti,
Quæſitum ad fontem ſolos deducere verpos.

They would not doe common civilities or charities to an uncircumciſed man, to a heathen. But when our Bleſſed Saviour had us'd them better, and ſo taught others to converſe with them, to doe them good and to ſave

thei

their ſouls, it will be very reaſonable to collect from hence, that Chriſt did not intend by this to enjoyn us to ſuch treatments of the excommunicates as the proud Phariſees gave to Publicans and heathens: but the manner of ſpeech was in uſe among the Jews to ſignify impious perſons and great ſinners, and ſo Excommunicates are to be accounted.

10. That therefore which remains is, that the uſage here intended is, that they ſhould be ſeparate from the communion of holy offices, from partaking in the myſteries of religion; for that was the known uſe of the words of *binding* and *looſing* among the Jews, which Chriſt us'd in giving the Church a power of excommunication. *To bind* ſignifies to forbid, and *to looſe* ſignifies to give admiſſion and leave, according to that uſual ſaying of the Jews, *There was nothing bound by* Ezekiel *or by* David *but what was bound in the Law*, that is, they forbad nothing elſe. So that the accounting theſe perſons ſeparate from God, and forbidding them to enter into the communions of the ſons of God in the myſteries of their religion, is all that can by any probability be inferr'd from hence, excepting what is ſuperadded from common reaſon and the laws of nature; that if beyond this there be danger of receiving hurt, the ſeparation goe further: and therefore the Apoſtles gave caution to their converts that they ſhould not ſalute or admit into their houſes falſe Apoſtles, becauſe of the imminent danger; but beyond this I find no Divine Commandement.

11. Whatſoever therefore beſides theſe things is ſuperadded by the laws of the King or the Canons of the Church is to be obeyed upon thoſe accounts, where no other duty is prejudic'd; and therefore in this there is no other rule of Conſcience, but that we firſt attend to the laws of God concerning our other duties, and then to the laws of the King in this. But in the thing it ſelf, excommunication cuts the refractary ſinner from the communion or religious entercourſe of the Church; he is not to be reckon'd as a Brother, or a relative in our religious friendſhip and union. The offices of humanity and civility are not to be denied to him; but there ought to be no dearneſſe and proximity of friendſhip: we are not to take much care of reproving him; his eares are ſhut to truth, and he cannot hear good counſel; *hujus ergo deſperanda ſalus* (as *Cicero* ſaid of the like perſons) unleſſe a new hope ariſe, we may deſpair of his ſalvation.

12. One thing more I adde, That when the Church inflicts cenſures upon thoſe who communicate with the Excommunicates, it is not upon a real belief that all ſuch perſons are guilty of the ſame crimes by ſecret approbation or conſent, but becauſe ſhe cannot tell whether they be or no; for it is a juſt legal preſumption, and hath ſome natural probability that it is ſo; and the Church is but too juſtly offended and ſcandaliz'd at ſuch communications and entercourſe. But then on all ſides there is a difference to be made, and the Church muſt not be ſo offended when he that communicates with the excommunicate apparently does not, or by that communion cannot be preſumed to partake of the principal ſin: and therefore beſides the tyranny and uſurpation and illegal proceedings of *Hildebrand* againſt the Emperor *Henry*, excommunicating him upon pretence of Simony in the matter of Inveſtitures, he did fooliſhly and unreaſonably excommunicate all them that did partake or converſe with him. For firſt the Church hath no power directly to make laws in the matter of ſecular converſation: and if it be

ſaid

ſaid, by conſequence and legal preſumption the Church concludes ſuch perſons that communicate with the excommunicates to conſent or partake of the crime; that is according as the matter is, and in this caſe is extremely unreaſonable and fooliſh: for it cannot be imagined that all the ſubjects of the Emperor ſhould be partners of the bargains, or ſhould know of them, or believe any ſuch thing, or approve it, if they did know or believe it; and the communicating with their Prince as ſubjects could not infer it, with any ſeeming probability, that they were all ſimoniacs.

13. But then on the other ſide, the ſons of the Church muſt be with curioſity reſtrain'd in their communions with ſuch excommunicates, whoſe converſation does with probability involve us in the guilt and participation of the principal crime: and this is eſpecially to be obſerved in ſins about Government, and in matters of perſuaſion, that is, in matters of hereſy and ſchiſme; for *their word eateth like a canker*, that is, theſe crimes are infectious and ſcatter themſelves into all that converſe with them, or is very likely ſo to doe; and therefore in theſe caſes the ſubjects may be more reſtrained from entercourſe with excommunicates, and it muſt be a greater neceſſity that muſt warrant it, then may paſſe and be allowed in other caſes.

14. This is all I find neceſſary to be conſidered in the matter of Eccleſiaſtical cenſures, in order to the regulating of conſcience: which the Caſuiſts in the *Roman* Church have handled in great volumes, and make it commonly the one half of all their inquiries and miniſteries of Conſcience. For all the queſtions and conſiderations concerning *ſuſpenſions, irregularities, interdicts, depoſitions and degradations, abſolutions of the dead and of the abſent, the forms of abſolution, reſervation of caſes, delegations and licenſes, abſolutions againſt our wills, and by others who bound us not, and upon falſe ſuggeſtions, abſolutions upon condition and reincidences, ſentences uncertain and unknown, excommunications comminatory & ipſo facto, papal and epiſcopal, common and ſpecial, principal and delegate, by regulars and ſeculars, the excommunication of Angels and Devils, of fowls and beaſts, Pagans & Jews*, and thouſands of queſtions, caſes, accidents, incidents, limitations of times appendant to all theſe, which make the peace of conſcience to be as impoſſible as the conduct of it, all theſe are cut off by the ſimplicity of truth, and the plaineneſſe of Divine inſtitutions, which are few, and eaſy, and uſeful, and reaſonable; wiſe, but not perplext; ſevere, but not inſnaring. But thoſe things which are introduc'd by humane authority and rely upon ſecular intereſts, the artifices of covetous or ambitious men, and are maintain'd by force and falſe or uncertain principles, they are fit for the *forum contentioſum* for *Courts of ſtrife*, but not for the Court of Conſcience, which is troubled by any thing that deſtroys peace as certainly as by that which deſtroys innocence.

§ III. Of CANONS Eccleſiaſtical.

That which I am next to inquire of, is, concerning the more particular perſons or communities of men in whom the Eccleſiaſtical power is ſubjected, and where we are to find the records of Eccleſiaſtical laws, and from whom the obligations of Conſcience doe proceed, and in what matters their authority is competent, and their Canons obligatory. That is, to what and whoſe Eccleſiaſtical Canons the Conſcience is, and how far it is bound.

Rule XI.

The Canons of the Apoſtles which are of Order and external government doe oblige the Conſcience by being accepted in ſeveral Churches, not by their firſt eſtabliſhment.

1. THat the Canons which the Apoſtles made did oblige the Churches to whom they were fitted & directed is without all queſtion, according to
2 Cor. 2. 9. that of the Apoſtle, *To this end alſo did I write, that I might know the proof of you, whether ye be obedient in all things.* For whatſoever was their ordinary power, yet they had ſo much of extraordinary, had ſuch ſpecial commiſſions and warranties from Chriſt, had ſuch gifts and miracles of power, ſo much wiſdome, ſo much charity, and ſo intire a government, and were the onely fountains from whence the rules of the Church were to be deriv'd, that their word ought to be a law to whom it was ſent, and a precedent to them that ſhould hear of it: it was like the pattern in the Mount, to which all Churches in equal circumſtances and the ſame conjunction of affairs might conform their practices.

2. Thus we find that the Apoſtolical decree of abſtaining from blood was obſerved by more Churches then thoſe of *Syria* and *Cilicia* to which the Canon was directed; and the college of Widows or Deaconeſſes, though provided for the firſt miniſtery of the churches and relief of ancient widows, deriv'd it ſelf into the manners of the Weſtern Churches, and laſted longer then there was need. There was no hurt in it; the reverence to the perſons and dignity Apoſtolical was foundation enough to bear a greater burden: but the retention of ſuch Canons and orders was juſt like the retention of the Judicial laws in ſome commonwealths, which they did in regard to the divine wiſdome; though they in ſo doing did piouſly indeed, but yet did not imitate that wiſdome by which thoſe laws were made.

3. But becauſe it is evident that the laws of order and government were fitted to times and places and preſent neceſſities, the ſame wiſdome that ſo fitted the laws and things together, did alſo know that thoſe rules were not good when the things were changed and grew unfit for that meaſure. The Apoſtles in their firſt preachings and converſation in *Jeruſalem* inſtituted a cœnobitic life, and had all things in common with the believers; indeed no man was tied to it: and of the ſame nature were their Canons, Counſels and advices, and propoſitions of what was beſt. But that adviſe related to the preſent neceſſities of believers: they were likely to ſuffer perſecution, and the nation was in a little time to be deſtroyed, and therefore it was prudence to ſell their lands, and charity to divide the uſe of it. But if any man ſhall ſay that this obliges all Chriſtians, he is unreaſonable; but if they doe not, then it is certain that their laws oblige according to the ſubject matter and the changing reaſons of things, and therefore not by their

their authority alone, but by their authority alſo who are judges of the reaſon of things, and can declare with obligation.

4. But yet further, The orders which the Apoſtles gave to their Churches, though they be as good now as they were then, and have equal circumſtances, yet unleſs it can appear that they by them intended to oblige all ages of the Church, although they were not free then, yet they are free now. Now this is certain, that they gave no ſuch laws but what they receiv'd in Commandement from Chriſt; and when ever they ſaid of any particular, *This ſay I, not the Lord*, they gave but an advice, or made a temporary order; but when they ſaid, *This we have receiv'd from the Lord*, it is alwaies a doctrine of faith, or a moral Commandement. So that the rules of order being neither of theſe are but topical, and limited, and tranſient; ſuch which when they are choſen by the Rulers of Churches they become Canons and meaſures of practice, but elſe not. The Apoſtle made an order in the Corinthian Church that men ſhould not pray or propheſy having their heads covered: but yet in *France* the preachers are covered, and doe not think they prevaricate an Apoſtolical Canon; becauſe they ſuppos'd it reach'd no further but to that Church, or at leaſt was agreeable to the manners and cuſtomes of thoſe places. S. *Paul* appointed that they ſhould lay aſide every firſt day of the week ſomething for the poor: but he that ſhall chuſe to doe this upon his weekly faſting-day, does as well; he does the ſame thing in another circumſtance. * S. *Paul* gave in order to *Timothy* that a Biſhop ſhould not be a novice; meaning in age, or in Chriſtianity, or both: and yet S. *Timothy* himſelf was but a novice, being choſen Biſhop at the age of xxv years, as the Eccleſiaſtical hiſtories report; and *Theodoſius* choſe *Nectarius* being but newly converted; and the people choſe S. *Ambroſe* to be Biſhop before he was baptiz'd, and the election was confirmed by *Valentinian*. *Fabianus*, *Cyprian*, *Nicolaus*, *Severus*, *Taraſius*, were all novices or new Chriſtians when they were choſen Biſhops; and yet the Church made no ſcruple of that Canon of the Apoſtles, becauſe to break it was more for the edification of the Church. And I remember that *Caſſander*, ſpeaking of the intolerable evils that fell upon the Church by the injunction of ſingle life to Prieſts and Biſhops, he ſaies this law ought to have been relaxed, although it had been an Apoſtolical Canon. * Thus alſo it happened in the Canon concerning the college of widows, *Let not a widow be choſen under threeſcore years*; and yet *Juſtinian* ſuffer'd one of forty years old to be choſen, and had no ſcruple, and he had no reproof: but that was no great matter; for the whole inſtitution it ſelf is now laid aſide, and other appointments are eſtabliſhed. * And which is moſt of all, that Decretal of the Apoſtles which was made in full Council, the moſt Oecumenical Council that ever was in Chriſtendome, made at the requeſt of the Churches of the Gentiles, and the inquiry of the Jews, forbidding to eat things ſtrangled, is no where obſerved in the Weſtern Churches of Chriſtendome; and S. *Auſtin* affirm'd that if any man in his time made a ſcruple of eating ſtrangled birds, every man did laugh at him. But of this I have given a full account *.

Conſult. Art. 23.

Novel. 123. c. 12, 13.

Lib. 32. contra Fauſtum Manich. c. 13.

* Lib. 2. Chap. 2. Rule 2.

5. Now if thoſe Canons Apoſtolical which are recorded in Scripture, and concerning which we are ſure that they had Apoſtolical authority, be without ſcruple laid aſide in all Chriſtendome, ſome every where, ſome in ſome places, it is evident that it is the ſenſe of the whole Catholick Church,

that the Canons of the Apoſtles for order and external meaſures of Government had a limited ſphere of activity, and bind not beyond their reaſon and convenience, that is, as every Church ſhall find them fitted to their own meaſures; and therefore this is much more true in ſuch things which are but pretendedly Apoſtolical, whoſe name is borrowed, whoſe ſtory is uncertain, whoſe matter is dubious, whoſe records are not authentick: and therefore whatever elſe can be pretended to be Apoſtolical, and is of this contingent nature and variable matter, is evidently ſubject to the preſent authority of every Church or Chriſtian Kingdome which is ſupreme in its own dominion.

6. But beſides the reaſonableneſſe of the thing, we ſee it practis'd in all places without diſpute or queſtion; that thoſe things which are called Canons Apoſtolical, and either were not ſo, or not certainly ſo, are yet laid aſide by thoſe Churches who pretend to believe them to be ſo. The 5th Canon of the Apoſtles in that collection which is called Apoſtolical, appoints that the firſt-fruits ſhall be ſent home to the houſes of Biſhops and Prieſts, and makes no queſtion but they divide them amongſt the Deacons and Clercs; but I think in the Church of *Rome* they pay no firſt-fruits, and what they doe pay, the Biſhops and Prieſts keep unto themſelves. But this is nothing. The 6th Canon commands that a Prieſt or a Deacon ſhould not under pretence of religion put away his wife: now this is ſo far from being receiv'd in the Church of *Rome*, that for this very Canon's ſake *Baronius* calls the collection apocryphal, and rejects them from being Apoſtolical. The 7th Canon forbids a Biſhop or Presbyter to have any thing to doe in ſecular affaires, under pain of depoſition. This would deſtroy much of the grandeur of the Church of *Rome* if it were receiv'd. And the 10th deſtroys one of their great corruptions in diſcipline and doctrine, for it is a perfect deletery of their private Maſſe; it excommunicates thoſe of the people who come to Churches and goe away before they have received the Communion, calling them diſturbers of the Church: now this at *Rome* would ſeem a ſtrange thing. And yet all theſe are within that number of fifty which *Baronius* ſayes were known to antiquity. But he that deſires more inſtances in this affaire, may conſult the Canons themſelves, amongſt which he will find very few obſerved at this day by any Church in Chriſtendome. The Church of *Rome* pretends to believe that the wedneſday and friday faſt were ordained by the Apoſtles; and yet the wedneſday faſt is not obſerved except by particular order and cuſtome but in very few places. * I ſhall give one inſtance more. The Apoſtles commanded the feaſt of Eaſter to be celebrated upon the Sunday after the full Moon which ſhould happen after the vernal Æquinox: So the Weſtern Churches ſaid. The Eaſtern pretended another Canon from S. *John* to celebrate it after the manner of the Jewes: and though they were confident and zealous for that obſervation upon the Apoſtolical warrant; yet the Weſtern Biſhops at firſt, and afterwards the whole Church did force the Eaſterlings to change that rule which they and their forefathers had avowed to all the world to have received from S. *John*; and it is obſervable that this was done upon the deſignes of peace and unity, not upon any pretence that S. *John* had never ſo given it in order to the Aſian Churches.

Reginald. prax. fori pœnit. l. 4. c. 12. ſect. 3. p. 148. n. 133.

Rule

RULE XII.

All thoſe Rituals which were taught to the Church by the Apoſtles concerning miniſteries, which were of Divine inſtitution, doe oblige all Chriſtendome to their obſervation.

1. INſtance in the Holy Sacrament firſt of all: concerning which the Apoſtles delivered to the Churches the eſſential manner of celebration, that is, the way of doing it according to Chriſts commandement: for the words themſelves being large and indefinite were ſpoken indeed onely to the Apoſtles, but yet they were repreſentatives of all the whole Eccleſiaſtical order in ſome things, and of the whole Chriſtian Church in other, and therefore what parts of duty and power and office did belong to each the Apoſtles muſt teach the Church, or ſhe could have no way of knowing without particular revelation.

2. Thus the Apoſtles taught the Biſhops and Prieſts to conſecrate the Symbols of bread and wine before they did communicate; not onely becauſe by Chriſts example we were taught to give thanks before we eat, but becauſe the Apoſtles knew that the Symbols were conſecrated to a myſtery. And this was done from the beginning, and in all Churches and in all ages of the Church; by which we can conclude firmly in this Rule, that the Apoſtles did give a Canon or rule to the Churches to be obſerved always, and that the Church did never believe ſhe had authority or reaſon to recede from it. For in thoſe rites which are Miniſteries of grace no man muſt interpoſe any thing that can alter any part of the inſtitution, or make a change or variety in that which is of Divine appointment. For the effect in theſe things depends wholly upon the will of God, and we have nothing to diſcourſe or argue; for we know nothing but the inſtitution, nothing of the reaſon of the thing: and therefore we muſt in theſe caſes with ſimplicity and obedience apply our ſelves to practice as we have received, for we have nothing elſe to guide us: *memory* and *obedience*, not *diſcourſe* and *argument*, are here in ſeaſon.

3. And in this we have an evident and apparent practice of the Church handed to us by all hands that touch theſe myſteries: as who pleaſe may ſee in [a] *Juſtin Martyr*, [b] *Irenæus*, [c] *Origen*, [d] *S. Cyril of Jeruſalem, and of* [e] *Alexandria*, [f] *S. Baſil*, *S. Gregory Nyſſen de vita Moyſi*, [g] *Optatus Milevitanus*, [h] *S. Chryſoſtom*, [i] *S. Ambroſe*, [k] *S. Hierom*, [l] *S. Auſtin*, [m] *Theodoret*, [n] *Gregorius Emiſſenus*, [o] *Gregory* the Great, [p] *Damaſcen*, [q] *Remigius*, [r] *Paſchaſius* and divers others, & abſolutely in all the liturgies that ever were us'd in the Church: ſo that the derivation of this Canon from the Apoſtles is as evident as the obedience to it was univerſal.

a Apol. 2. ad Anton.
b lib. 4. Ad. hær. c. 34.
c lib. 8. contr. Celſum.
d Myſtag. Catech. 3. & 4.
e in Johan. lib. 10. c. 13.

f lib. De ſpir. S. cap. 27. g lib. 2. Contr. Par. h in 2. Tim. Hom. 2. Serm. de prodit. Jud. i de Sacram. lib. 4. c. 4. k Ep. 1. & Ep. 85. ad Evagrium, & in Sophon. c. 3. l de Trinit. lib. 3. c. 4. contra Fauſt. Manich. lib. 20. cap. 13. & Serm. 28. de verbis Domini. m Dial. 1. n Serm. 5. de Paſchate. o Dial. l. 4. c. 58. p de Fide. l. 4. c. 14. q in 1 Cor. cap. 10. r lib. de Corpore Domini.

4. But where the Apoſtles did not interpoſe, there the Churches have their liberty; and in thoſe things alſo which evidently were no part of the appointed liturgy or miniſtration, in thoſe things though it be certain the Apoſtles did give rules of order and decency, yet becauſe order is as variable as the Tactics of an army, and decency is a relative terme, and hath a tranſient and changeable ſenſe, in all theſe things there is no preſcription to the Church, though we did know what the Churches Apoſtolical did practiſe, for they did it with liberty: and therefore we are not bound; the Churches are as free as ever; though the ſingle perſons in the Churches can be bound, yet the Churches always have liberty.

5. And indeed that is the beſt ſigne that the Apoſtles gave no perpetual order in any inſtance, and that it is no part of the inſtitution or the miniſtery of grace, when the Ancient Churches, who were zealous for the honour Apoſtolical, and accounted every thing excellent that deriv'd from them, did differ in their practices. Thus the Greek and Latine Churches did always differ in the Sacramental bread, the Latins conſecrating in unleavened bread which the Greeks refuſe: if either one or other had been neceſſary they ſhould have been clearly taught it, and if they had, there is no reaſon to believe but they would have kept the *depoſitum*, there being no temptation to the contrary, and no difficulty in the thing, and no great labour to preſerve; the daily uſe of the Church would have had in it no variety; for no traditions are ſurer, or eaſier preſerved then the λειτουργικὰ *the matters of liturgy* and the Rituals Apoſtolical: which when we find that they were unitedly and conſentingly kept by the Ancient Churches, we may well ſuppoſe the Apoſtles to be the firſt principle of derivation, and that the thing it ſelf was neceſſary and a part of the religion; but if at firſt they varied, they had no common principle, and therefore they had no neceſſity.

6. Thus that the Biſhop or Prieſt ſhould be the onely Miniſter of conſecration is an Apoſtolical Canon or Rule, *ad quorum preces Chriſti corpus ſanguisque conficitur*, ſaith S. *Hierom:* and the continuation and deſcent of this particular from the manners of the Apoſtolical miniſtration is evident in the fore-alleged teſtimonies. Now becauſe by this conſtant derivation we can purſue the track up to the Apoſtles, and from their practice and teaching of it we can underſtand it to be *the will of God*, and becauſe this whole miniſtery is an act of grace and depends onely upon the will of God, we perceive the thing to be neceſſary and unalterable, we muſt look for grace in the miniſteries of grace ſo as God hath appointed them; and therefore in theſe things the Churches of the ſucceeding ages have no authority, no liberty, no variety. * That women do communicate in the holy myſteries is not ſet down in the inſtitution: but the Church derives her warranty from the interpretation and order and practice Apoſtolical: the Church was taught by the Apoſtles to admit them, and ſhe always did it: and theſe things amongſt ſober and modeſt men doe ſufficiently prove one another. They always did it, and therefore they were taught it by the Apoſtles: and they were taught to doe ſo by the Apoſtles, and therefore they were oblig'd to doe it. And now in matters of ſalvation and common duty, the rule of the Church is, *Scriptura loquens in Maſculino procedit etiam in fœminino.* There is no difference in ſexes, and before God it is now as it ſhall be in the reſurrection, *There is neither male nor female with him*, but all alike.

Epiſt. 85.

Panormitan. in capit. Majores in princip. in 5to Notab.

That

7. That the Symbols were to be conſecrated, and who were to conſecrate, and who were to receive, were of great neceſſity to be taught and determin'd: and in all this we ſee unity and neceſſity, authority and obedience; but when we goe beyond this and the plain & neceſſary & conſtituent parts of the inſtitution we find variety and uncertainty. That bread is to be us'd is plain: but whether leavened or unleavened neither Chriſt nor his Apoſtles have left in charge or memory. That wine is to be bleſs'd is certain: but whether mingled with water or not mingled, we are not determined by any authority. That the bread and wine are to be bleſs'd we are ſure: but in what form of words, and whether by the myſtic prayer, or the words of inſtitution, is not deriv'd to us by ſufficient tradition. That the Lords Supper is ſacredly and with reverence to be receiv'd is taught us by the Apoſtles: but whether this reverence ought to be expreſs'd by taking it *virgine ſalivâ*, faſting, or not faſting, the Apoſtles left the Churches to their choice. In thoſe things which did cooperate immediately to the grace of the Sacrament, in thoſe we were not to invent any thing, and in thoſe we were tied to obey what was deliver'd us.

8. And the ſame is the caſe in Baptiſme, in which that which was neceſſary is that the perſon be baptized in water, and in the name of the Father, Son and holy Ghoſt: but whether the Prieſt ſhall ſay, *Ego te baptizo*, as the Latins doe, or *Baptizetur ſervus Chriſti*, as the Greeks doe, is indifferent: and if the Apoſtles had us'd any other little variety of words, yet if there was not in the firſt Churches an unity and univerſality of practice, it is certain the Apoſtles did not by their act or Canon intend to oblige all Chriſtendome; but themſelves did it with liberty, and therefore ſo might the Churches after them.

9. For, excepting thoſe things which the Apoſtles received from Chriſt in which they were miniſters to all ages, once for all conveying the mind of Chriſt to the generations to come, in all other things they were but ordinary Miniſters, to govern the Churches in their own times, and left all that ordinary power to their ſucceſſors, with a power to rule their Churches, ſuch as they had, and therefore what ever they conveyed as from Chriſt, a part of his doctrine or any thing of his appointment, this was to bind for ever; for Chriſt onely is our law-giver, and what he ſaid, was to laſt for ever: in all things which he ſaid not, the Apoſtles could not be law-givers, they had no ſuch authority; and therefore whatſoever they order'd by their own wiſdome, was to abide as long as the reaſon did abide; but ſtill with the ſame liberty with which they appointed it; for of all men in the world they would leaſt *put a ſnare upon the Diſciples*, or tie fetters upon Chriſtian liberty. But in Divine Commandements, and in what were the appointed miniſteries of grace, they were but the mouth of Chriſt and Miniſters of his holy ſpirit; and in thoſe things, what they told to the Churches is our law for ever.

10. Of the ſame nature is the diſtinction of Biſhops from Presbyters, and the government of the Church by them: for this being done in the Apoſtles times, and immediately receiv'd by all Churches, who every where and ever ſince were governed by Biſhops and by Presbyters under them, it is not onely ſtill to be retain'd unalterably, and is one of thoſe great things in which the preſent Churches have no liberty or authority to make a change,

but it is to be concluded to be a law of Christ, which the Apostles did convey with an intent to oblige all Christendome; not onely becauſe the Apoſtles could not in things indifferent oblige or make a law to ſucceeding ages, for they had no authority and could not govern Churches after they were dead, and it was againſt the laws of Chriſt that the commandements of men ſhould be taught for doctrines, and it is againſt Chriſtian liberty, that a laſting neceſſity ſhould by man be put upon any thing, and the ſucceeding Churches would be ſtreightned in the liberty which Chriſt had given them, and in which they were bound to ſtand faſt; not onely all this, but this was a Miniſtery of grace, the Biſhops were for ever appointed to give *a gift by the laying on of hands:* and therefore here was an appointment by Chriſt and by Chriſts ſpirit; for there is not in the world a greater preſumption then that any ſhould think to convey a gift of God, unleſſe by God he be appointed to doe it. Here then could be no variety, and no liberty: this Canon Apoſtolical is of eternal obligation, and the Churches cannot otherwiſe be continued.

11. But then in the appendages and annexes of this, the Apoſtles did doe their miniſteries; they did invocate the holy Spirit upon thoſe which were to be ordained: but in theſe they had no commandement what form to uſe. Impoſition of hands and prayer were the neceſſary and appointed miniſtery; for in theſe things the Churches did not vary, but took them from the Apoſtles as the appointed liturgy: but with what forms of words, and with the tradition of what inſtruments, is left to the choice and Oeconomy of every Church.

Rule XIII.

In the Rules which the Apoſtles gave to their Churches in things indifferent, the Church hath a liberty; but it is not to be uſed but for great reaſon and great neceſſity, and for the edification of the people committed to their charge.

1. THe reaſons of this Rule are theſe two. Firſt, becauſe it is a great regard to the honour'd names of the Apoſtles, the pillars and foundations of the Church, that there be not an eaſy change made of what they in wiſedome had determin'd to be the meaſures of order and decency.* But this is to be underſtood in ſuch things which change not, and whoſe nature although it be not of moral obligation, yet the reaſon that bound it firſt may be perpetual, and ſuch which cannot be ſucceeded to, and cannot be excelled. Thus the keeping of the Lords day, beſides all the other reaſons deriv'd from the nature of the thing, yet even for this alone, becauſe it deriv'd from the Apoſtles, is to remain ſo for ever: becauſe the reaſon being at firſt competent for which they kept their aſſemblies, and gave that day to religion, and the ſame reaſon remaining for ever, and another cannot come in place of it, and a greater there cannot be, although the Churches are

are not in Conſcience directly bound, yet collaterally and indirectly they are. For it would be a plain contempt of the perſons and wiſedome of the Apoſtles, beſides the diſreſpect to the myſtery it ſelf, to change the Sunday Feſtival into any other day; for ſince there can be no reaſon for ſo doing, and a greater bleſſing then Chriſts Reſurrection we are not to expect, and a greater reaſon for the keeping of a day then a thanksgiving for the greateſt bleſſing there cannot be (except a Divine commandement) the onely reaſon why any Church ſhould change it muſt relate to the Apoſtles, and therefore be no leſſe then a contempt of their perſons and a leſſening of their eminence, and could not be leſſe then an intolerable ſcandal.

2. The other reaſon is, becauſe the Apoſtles even in things where they had no Divine Commandement, yet had the Spirit of God, * the ſpirit of wiſdome and government; and therefore where evidently there is not an inconvenience, or an uſeleſneſſe, or an unreaſonableneſſe by reaſon of the change of times and circumſtances, the Churches are on the ſurer ſide when they follow the practice and precedents of the Apoſtles, and have the confidences of a reaſonable hope that ſuch appointments are pleaſing to Chriſt, ſince it is not unlikely that they were deriv'd from the Spirit of Chriſt. But in theſe caſes the practices and Canons Apoſtolical muſt be evident and prov'd: For ſince in theſe particulars of leſſer concernment, we doe but preſume and conjecture that the Apoſtles were taught by the Spirit immediately; if it be but a conjecture alſo that the Apoſtles did teach or practiſe it, we have two lame feet, and cannot tread ſecurely.

* 1 Cor. 7. 40.

3. I ſhall give one inſtance in this particular, but it will be of great uſe, not onely for the verification of this explication of the Rule, but in order to conſcience, becauſe it is in ſome Churches tied with ſtraight cords, and pretended to be very neceſſary, and of great obligation upon this ſtock, becauſe it was appointed by the Apoſtles: and it is the obſervation of Lent and the weekly faſting-days.

Of the Lent-faſt, and the weekly faſting-days.

4. The faſt of Lent of all that are not pretends the moſt fairly to have been an Apoſtolical tradition; and if it could prove ſo it would with much probability pretend to have been impoſed with a perpetual obligation.

5. Of the firſt we have many teſtimonies from the Ancient Fathers. So S. *Hierom*, *Nos unam quadrageſimam ſecundum traditionem Apoſtolorum toto anno, tempore nobis congruo jejunamus.* So S. *Leo*, *Quod ergo in omni tempore unumquemque convenit facere Chriſtianum, id nunc ſollicitius eſt & devotius exequendum, ut Apoſtolica inſtitutio quadraginta dierum jejuniis impleatur.* And again, *A Sanctis Apoſtolis per doctrinam ſpiritus ſancti majora ſunt inſtituta jejunia, ut per commune conſortium crucis Chriſti, nos etiam aliquid in eo quod propter nos geſſit ageremus.* To theſe agrees *Iſidorus Hiſpalenſis*, *Quadrageſima in univerſo orbe inſtitutione Apoſtolicâ obſervatur circa confinium Dominicæ paſſionis.* To which *Dorotheus* a Greek Abbat does conſent, ſave onely that he ſayes more; for he affirms that the Apoſtles did conſecrate the ſeven quadrageſimal weeks of faſting. So that here

Epiſt. 54. ad Marcell.

Serm. 6. de 40ma

Serm. 9.

Origin. l. 6. c. 19. p. 83. a.

Biblioth. PP. Græcolat. T. 1. p. 839.

here we have four Ancient Authors giving teſtimony that the Lent-faſt was a tradition or an appointment Apoſtolical.

6. Now if it came from the Apoſtles by way of precedent or authority, the thing it ſelf hath in its nature or appendage ſome advantages by which with much reaſonableneſſe we may believe it was intended to bind all ages of the Catholick Church. Becauſe the uſefulneſſe of it will be as much now as ever it was; and it being a ſpecification of the duty of faſting, which will never be out of ſeaſon, and having always the ſame common cauſe, that is the precedent of *Moſes* and *Elias*, and the example of our Bleſſed Saviour himſelf, the duty not being relative to time or place, and the reaſon of the inſtitution being of perpetual regard, and the uſefulneſſe very great, and the thing pious and holy, and adde to theſe, all Churches ancient and modern having received it till now of late, it will be very like a duty incumbent upon all Churches and all ages to obſerve this faſt which the Apoſtles with ſo much reaſon did preſcribe.

7. And in purſuance of this we find ſome excellent perſons in the Ancient Churches ſaying expreſſely that this inſtitution is warranted to us from Chriſt. So S. *Auſtin*, *The Careſme or Lent-faſt hath an authority of a Faſt both in the Old Teſtament from the faſt of* Moſes *and* Elias, *and out of the Goſpel (becauſe ſo many dayes the Lord faſted) demonſtrating that the Goſpel does not differ from the law*: and again, *By that number of fourty in which* Moſes *and* Elias *and our Lord himſelf did faſt, was ſignified unto us that we muſt abſtain from ſecular delights.* The ſame thing alſo is affirmed by S. *Hierom*, Moſes *and* Elias *in their forty days hunger were filled with the converſation of God: and our Lord himſelf faſted ſo many days in the wilderneſſe that he might leave to us the ſolemn days of faſting*; or, as he ſays in another place, *hæreditatem nobis jejunii derelinquens, ad eſum corporis ſui ſub hoc numero animas noſtras præparat, leaving to us the inheritance of faſting, under this number he prepares our ſouls for the eating of his body.* So *Iſidore*, *The firſt is the faſt of Lent, which began from the faſt of* Moſes *and* Helias *and of our Bleſſed Lord, who faſted ſo many days.*

Epiſt. 119. ad Januar. in Pſal. 110.

in Iſai. l. 16. c. 58.

in Jonæ cap. 3.

8. Now although theſe Fathers intend not to ſay that our Lord did command this faſt, but gave us a precedent and an example to imitate as well as we can; he was the occaſion why the Church took that time, and perform'd that ſeverity: yet the example of our Bleſſed Lord cannot be neglected without ſin: *Non enim, Fratres, leve peccatum eſt indictã Quadrageſimam à Domino non jejunare, & jejunia conſecrata ventris voracitate diſſolvere*, &c. ſaid the Author of the 25th ſermon in the works of S. *Ambroſe*. *It is not a light ſin not to keep the Lenten-faſt which was indicted by our Lord, and with the greedineſſe of the belly to diſſolve theſe conſecrated faſting-days. For what does he deſerve that breaks the faſt which Chriſt indicted? If therefore thou wilt be a Chriſtian thou muſt doe as Chriſt did. He that had no ſin faſted forty days: and wilt not thou who haſt ſinned keep the Lent-faſt? He (I ſay) that had no ſin yet faſted for our ſins: Think therefore in thy Conſcience what a kind of Chriſtian thou art, when Chriſt faſting for thee thou wilt eat thy dinner.* This Author whoever he was (for it was not S. *Ambroſe*) ſuppos'd that the example of Chriſt was a ſufficient indiction of the Quadrageſimal faſt. But it is to be obſerved that it is not unuſual with Ancient writers to affirm a thing to be by Divine right, if there

there be in Scripture but an authentic precedent and example of it. Thus when the Canon law affirms *in 6. de cenſibus, cap. Quanquam,* That the Churches & Church-men are free from ſecular exactions not onely by humane but alſo by Divine right: which ſaying becauſe to our eares it muſt needs ſeem extremely harſh, the Gloſſe upon the place does ſoften it, by referring it to the fact of *Joſeph* to the *Egyptian* Prieſts, & of *Artaxerxes* to the *Iſraelites*. So that it is not intended that things of this nature be Divine precepts properly ſo called; but ſuch which the Church for decent regard takes up in imitation of ſo great examples: and indeed they are ſuch, which when the Church hath upon ſuch accounts taken up, cannot be omitted without ſin, if they be omitted without cauſe: for then they have authority when they are commanded by our ſuperiors. But the example of our Bleſſed Lord in ſuch extraordinaries as theſe is but a very weak argument to introduce an inſtitution, ordinary and perpetual, troubleſome and enſnaring. But of this that we may be rid at once, I will ſet down the judgement of S. *Auſtin* and of S. *Chryſoſtom*. *In what ſhall we imitate the ways of Chriſt? Shall it be in that magnificence in which God was in the fleſh? Or does he exhort us to this, or exact of us to doe miracles ſuch as he did? He did not ſay, Ye ſhall not be my diſciples unleſſe ye walk upon the ſea, or unleſſe ye raiſe to life him that hath been dead four days, or unleſſe ye open the eyes of one that was born blind. What therefore does he mean, ſaying, Ye muſt enter by the doore; Learn of me, becauſe I am meek and humble in heart?* that's entring in by the door, that's the imitation of Chriſt that is requir'd of us. But S. *Chryſoſtom* ſays the ſame thing, and more pertinently and applied to this matter of faſting: *He doth not ſay his faſt is to be imitated, although he might propound thoſe fourty days of his: But, Learn of me, for I am meek and humble in heart: yea rather contrarily, when he ſent the Apoſtles to preach the Goſpel, he did not ſay, Faſt, but, Eat whatſoever is ſet before you.* Now this argument of our Bleſſed Lord's example being remov'd, and it being certain that from his example to conclude a Divine precept in ſuch extraordinaries and external actions is the worſt argument of the world, and it being expreſſely affirmed by S. *Chryſoſtom* that Chriſt did not in his faſting propound himſelf as imitable by us, we may now return to the firſt conſideration and pretence, and inquire whether or no the faſt of Lent was a tradition and Canon Apoſtolical: that is, not onely whether this did deſcend from their practice (for if Chriſts example did not oblige us in this, much leſſe could that of the Apoſtles;) but alſo whether the Apoſtles did deliver this as a rule for the practice of the Churches in all deſcending ages.

Vide Bellar. lib. 1. de cleric. c. 28. §. quinta propoſitio.

S. Aug. in Pſal. 90.

Homil. in Matth. 47.

The Lent-faſt is not a tradition or Canon Apoſtolical.

§. This firſt appears in that we find it affirm'd often in Antiquity that the faſts of the Church were arbitrary and choſen, without neceſſity and impoſition from any authority. Which thing was obſerved by *Socrates*, ſpeaking of the Lent-faſt. *Becauſe no man can ſhew in any record that there was a Commandement concerning this thing, it is manifeſt that the Apoſtles did permit a free power in the ſame, leaving it to every ones mind and choice, that every one might doe what was good, without the inducement of fear or of neceſſity. For ſo we ought to faſt and to abſtain* (ſaith *Proſper*) *that we may not ſubmit our ſouls to a neceſſity of faſting and abſtaining, that we may not doe a voluntary thing by an involuntary devotion.* But of this we have elder

lib. 5. cap. 22. Grx. 21. Latin.

de vita contemplat. lib. 2. cap. 24.

elder teſtimony: for when *Tertullian* ſcrap'd together all that he could to juſtify the Lents of *Montanus*, the new faſts which he for diſcipline would have had the Churches for ever to obſerve, he lay'd hold upon the practice of the Catholics to verify *Montanus* his impoſition, ſaying that the Catholic Biſhops did injoyn faſts *ſometimes* and *ex aliqua ſollicitudinis Eccleſiaſticæ cauſa*, upon the occaſion of ſome trouble or affliction in the Church, that is, temporary faſts, or ſolemn dayes upon ſpecial emergent accidents. He addes alſo that they kept the Paſchal faſt, the two days before Eaſter, in which the *Bridegroom was taken from them*: but in theſe days they did ſometimes live on bread and water, *ut cuique videbatur, & hæc ex arbitrio agentes & non ex imperio*; *they did this not by any command, but by choice and as they pleas'd themſelves*: for ſo the Catholics did ſay and believe, *ſic & obſervaſſe Apoſtolos, nullum aliud imponentes jugum certorum, & in commune omnibus obeundorum jejuniorum*, that the Apoſtles did faſt as every Chriſtian elſe did and ought to doe, *ex arbitrio, pro temporibus & cauſis uniuſcujuſque, as every one had cauſe and opportunity and will*; but they impos'd no other yoke of certain, and for ever to be obſerved faſts.

lib. De jejun. cap. 13.

Cap. 2.

Laxus ac liber modus abſtinendi
Ponitur cunctis: neque nos ſeverus
Terror impellit: ſua quemque cogit
Velle poteſtas.
Sufficit quicquid facias, vocato
Numinis nutu prius, inchoare,
Sive tu menſam renuas, cibumve
Sumere tentes.

Cathemer. hymn. 8.

So *Prudentius*, expreſſely affirming that even in his time there were no laws of ſet and annual faſts: for that very thing *Victor Antiochenus* makes to be a difference between the Old and New Teſtament; for the faithfull in that time had faſting-days appointed by God, *quæ proinde modis omnibus explere obligabantur, etiamſi alias noluiſſent, which they were bound by all means to obſerve though againſt their will*; but under the Goſpel we faſt by the love of vertue, and the choice of our own will, rather then by the coaction of any law. For *quibus diebus jejunandum ſit nullo Apoſtolorum præcepto definitum reperiri*, ſaid S. *Auſtin*; *what days we are to faſt is no where to be found determin'd by any precept of the Apoſtles.*

in Marc. cap. 2.

Epiſt. 68. ad Caſulanum.

10. 2. This alſo appears in that we find the original of the Quadrageſimal or Lent-faſt attributed to other cauſes and beginnings then the tradition or Canon Apoſtolical. *Caſſian* ſayes, that *as long as the perfection of the Primitive Church did remain, there was no obſervation of a Lent-faſt; for they who ſpent the whole year in abſtinence were not tied with the neceſſity of a precept or legal ſanction. But when the multitude of the believers every day cooling in their devotion did brood upon their wealth..... id tunc univerſis ſacerdotibus placuit, then it ſeem'd good to the Biſhops to recal men to the work of holineſſe by a Canonical indiction of faſts, and to give to God the tenth of their days.* So that the cauſe of the inſtitution of this faſt was the univerſal declenſion of the Primitive piety: and the Authors of it were the whole conſent of Biſhops. Something like this was that of S. *Chryſoſtom*, who complaining of the diminution of the Primitive heats of piety, and their unworthy communicating, eſpecially at Eaſter, addes, σωμελ-

Collat. 22. c. 30.

Cap. 9.

11.

12.

In Vet. Teſt. T. 5. Hom. in eos qui Paſcha jejunent.

δόντες ἔν οἱ πατέρες τὴν βλάβλωτὴν γινομένην ἐκ τῆς ἡμελημένης πρόσθε, σωμελ-δόντες ἐτύπωσαν ἡμέρας πεντήκοντα νηστείας, εὐχῶν, ἀκροάσεως, σωφροσύνης, &c.

When

When the Fathers had obſerv'd the hurt that came from ſo careleſſe conventions, they meeting together appointed forty days for faſting and prayer and hearing Sermons, and holy aſſemblies. S. *Auſtin* does not, as *Caſsian*, impute it to the ſanction of the Biſhops, nor to a Council of the Fathers, as S. *Chryſoſtom*, but to the cuſtome of the Church. *Ut quadraginta illi dies ante Paſcha obſerventur Eccleſiæ conſuetudo roboravit : Sic etiam ut octo dies Neophytorum diſtinguantur à cæteris*, *The cuſtome of the Church hath eſtabliſhed the obſervation of forty dayes before Eaſter, and the eight dayes after Eaſter for the Novices.* Both from the ſame principle. But it was not the authority of the Apoſtles, but the cuſtome of the Church that made it into a law. In *Irenæus* his time there was a cuſtome of faſting about that time, for one or two dayes or more, but it was κατ' ἀπλότητα καὶ ἰδιωτισμὸν συνήθειαν *a ſimple and a private cuſtome.* But when it was made, it was onely for the imperfect, and the men of the world that ſpent their year in gathering money, and miſpent their time, they onely were intended in the conſtitution. This we have from S. *Hierom*, *jejunia à viris prudentibus propter eos conſtituta fuiſſe qui magis ſæculo vacant quam Deo*, Some prudent men appointed the ſolemn faſts for their ſakes who ſpent their time in the affaires of the world, more then in religion. And ſince it is conſentingly affirmed that the great end of the Lent-faſt is for preparation to the Eaſter communion, what uſe (at leaſt to this great purpoſe,) can it be of to thoſe pious perſons who communicate every fortnight, or it may be every week in the year? But it is true that the great end and miniſtery of the Lent-faſt was in order to the Eaſter communion, but it was of ſuch perſons who being admitted to publick penance upon Aſhwedneſday were reconcil'd and admitted to the communion upon Eaſter-day: which cuſtome being not in uſe, the uſe of Lent in order to the chief end to which it did miniſter is wholly loſt. It was therefore true which S. *Hierom* ſaid, that Lent was for the imperfect and ſecular perſons, for publick penitents and perſons convict of ſcandalous crimes, for men of the world, and not for the religious, who every moneth or week obſerve the religion of Eaſter, and live in a ſtate of perpetual preparation. *Perfecti non tenentur lege jejunii*, They that all the year liv'd ſtrictly were not bound to the obſervation of Lent: ſo *Caſsian*; and from him * *Iſidorus Hiſpalenſis* and † *Rabanus Maurus*: and the ſame thing alſo was affirmed by S. * *Chryſoſtom*, from whom *Caſsian*, who was his ſcholar, might receive it.

Epiſt. 119. ad Januar.

apud Euſeb. lib. 5. cap. 26.

in Galat. l. 2.

* de Offic. Eccleſ. l. 1. c. 36. † de Inſtit. Cleric. lib. 2. cap. 20.

11. 3. Some of the Ancient and Primitive writers affirm Pope *Teleſphorus* to have been the firſt author of Lent-faſt about the year 136. So *Euſebius* in his *Chronicon* affirms, *Quadrageſimale jejunium à Teleſphoro per hoc tempus inſtitutum ac præceptum quidam ſcribunt*, Some write that *Teleſphorus* commanded the Quadrageſimal faſt. *Scaliger* believes this not to be the ſaying of *Euſebius*, as not being to be found in the Greek MS. copies: but however, till *Scaliger*'s time it was in the middle ages of the Latin Church and ſo downwards believed; and it was affirmed expreſſely by * *Rabanus Maurus* and † *Rupertus*.

* Homil. 10. in Geneſ.

* ubi ſuprà, cap. 34. † de Divin. offic. l. 4. c. 9.

12. 4. The Thing and the Name was unknown in the Church in the firſt three Ages. This is very apparent in *Tertullian*, who making his apology for the faſting-dayes of *Montanus*, ſayes they are no ſuch great matter that the ψυχικοὶ *the ſpiritual men* (ſo he calls the *Catholics*) ſhould complain of them as of ſo intolerable yoke upon the Diſciples. It was but ten dayes

Sozom. l. 7. cap. 19. Petav. in not. ad Epiph. p. 361. Tertull. de jejun. c. 15.

in all; two weeks, abating Saturdays and Sundays: and *Sozomen* sayes these two weeks were before Easter. Now if the Catholics had known of our Lent then, of forty dayes fast, they would never have been so unreasonable to complain of the ten dayes of *Montanus*; and that was all he impos'd in the whole year, let the time be when it will. And yet this was more then the Catholics did; for when from their practice (as I noted before) *Tertullian* would fain have drawn some warranty and countenance, he sayes that *the Apostles did not quite extinguish all difference of dayes; for if they did, why did the Catholics then observe Easter every year? why the fifty dayes of joy after it? why the Wednesday and Friday fast, and* [good Friday or] *the preparation-day? and why the Saturday fast? though indeed this ye never fast but at Easter.* Here is all the solennities both of feastings and fastings which the Church then had: and therefore it is easy without much diligence to discover the weakness of those pretences which derive from more ancient record, but indeed are nothing but deceptions and interpolations. Such as is the 69th *Canon* Apostolical, which commands the observation of Lent to a Clergy-man under pain of deposition, to a lay-man under excommunication. But the imposture of these Canons, especially of the last 36, amongst which this is one, are abundantly acknowledged by men of all persuasions. And so is that of S. *Ignatius* to the *Philippians*, *Despise not the Lent, for it contains an imitation of the conversation of our Lord.* But of this Epistle the Ancients make no mention, and that it is suppositious is very fully proved by the learned and most Reverend Primate of *Ardmagh*, and it is so notorious as nothing can be more; for the author of this Epistle condemns that which S. *Ignatius* and his neighbour-Churches did, and calls him *a companion of them that killed Christ, that keeps Easter after the manner of the Jews.* But of this enough. But as to the thing; If the Lent fast were of Apostolical institution, it were strange there should be no mention of it in the certain writings of the three first ages; not a word of it in *Justin Martyr* or S. *Irenæus*, in *Tertullian* or *Clemens Alexandrinus*, in *Clemens Romanus* his genuine Epistle to the *Corinthians*, nor in S. *Cyprian*. There is indeed a little shred taken out of *Origen*'s tenth homily on Leviticus [*Habemus enim quadragesimæ dies jejuniis consecratos*] *we have the dayes of Lent design'd for fasting.* But concerning this I can onely say that the homilies were supposed to be S. *Cyril*'s, written in the fifth age and publish'd in his Name; but whoever be the author, he that wrote them destroys the letter of the Scripture all the way, out of his own brain, and is a man of no great authority, sayes *Bellarmine*: and therefore it remains certain that in the three first ages of the Church there was no mention made of the quadragesimal or forty-dayes fast in Lent, and therefore it was not deriv'd as a law or by rule from the Apostles: but so strange a thing it was that there should be any common prescript fasts, that *Apollonius* accus'd *Montanus* for it, he was διδάξας λύσεις γάμων, καὶ νηστείας νομοθετήσας, *he taught the solutions of marriage, and made a law for fasting-dayes.*

Cap. 14.

Differt. ad Ignat. cap. 12.

de Verbo Dei lib. 4. c. 11.

13. 5. The Quadragesimal fast was relative and ever in order to the Easter feast, and therefore could not be before that for whose sake it was appointed. But the feast of Easter was, and the Sunday festival was introduc'd by custome and arbitrary choice, for relaxation of labours and the memory of Christs resurrection: indeed it was at the beginning of the dissemination and prevailing of Christianity, but it was without a Divine command, or an Apostolical Canon, if we may believe *Socrates*. Τὴν ἑορτὴν τῶν

lib. 5. c. 22.

πάσχα

πάσχα οἱ ἄνθρωποι... ἕκαστοι κατὰ χώρας ὡς ἐβουλήθησαν... οὐδ' ἔθους τινὸς ἐπετέλεσαν. οὐ γὰρ νόμῳ τοῦτο παρεφυλάττειν ὁ Σωτὴρ ἡμῶν οἱ Ἀπόστολοι ἡμῖν παρήγγειλαν, *The feaſt of Eaſter and other feaſts, every man as they pleas'd in ſeveral places did out of a certain cuſtome celebrate the memory of the ſalutary Paſſion. For neither our Saviour nor the Apoſtles appointed this by a law.* For the Apoſtles did not trouble themſelves about making laws for feaſts, ἀλλὰ βίου ὁρθοῦ καὶ τοῦ θεοσεβεῖν εἰσηγήσασθαι, *but to introduce piety and a good life.* The reſt was permitted to the good will of the Churches, who being ſenſible of the great benefits of Chriſts paſſion and reſurrection, would quickly introduce a cuſtome of ſuch a pious gratitude: and *Nicephorus* tels the ſame ſtory, and in words very like. And the thing was not long in doing; it was ſo reaſonable, ſo pious, ſo obvious, ſo ready and prepar'd, that at the very beginning all Chriſtians did it, though, as it happens, in ſeveral Churches after ſeveral manners. And ſuppoſing that theſe Greeks ſay true, yet it is no more leſſening to the ſacredneſſe of that great feaſt, that the Apoſtles did not intend to make laws concerning it, then it is to Baptiſme, that S. *Paul* ſayes, *Chriſt ſent him not to baptize, but to preach the Goſpel*; that is, though to baptize was a holy office, yet he was to attend ſomething that was greater and requir'd his diligence and preſence. But this addes ſome moments to the ſacredneſſe of this and other ſuch feaſts, that the Apoſtles left it to the piety and good will of the Churches, as knowing that the Spirit of God, which they had receiv'd to this and greater purpoſes, was more then ſufficient for the leading them into a ſpecification of their piety and gratitude upon ſuch great cauſes: and it was a very great matter that inſtantly all Churches did conſent in the duty, without any law, or common teacher, but the Spirit of God and right reaſon. The reſult of this conſideration is this, That if the Apoſtles left the celebration of Eaſter and other feaſts to the choice and piety of the Churches, it is not likely that they bound the Lent-faſt by a Canon, ſince the Lent was always acknowleged to be a preparation for Eaſter, and was never heard of before there was a Chriſtian Eaſter. But if I may have leave to interpoſe my conjecture (for it is no more) I ſuppoſe *Socrates* by *Paſcha* does not mean the day of the Reſurrection, but the day of the Paſſion; and that he intends onely to ſay that the ſolemnity of the good-Friday devotion was not appointed by Chriſt and his Apoſtles, but left to the piety and gratitude of the Church. The reaſons of my conjecture are theſe. 1. Becauſe *Socrates* calls it μνήμην τοῦ σωτηρίου πάθους *the memorial of Chriſts paſſion*; which the Eaſter Sunday was not, but of the reſurrection. 2. Becauſe we find the word *Paſcha* us'd by the Ancient Fathers in the ſame ſenſe; τὸ πάσχα νηστεύειν ſaid *Timotheus Alexandrinus*, *to faſt on the Paſch*: ſo ἡ νηστεία τοῦ πάσχα, S. *Clement* calls the good-friday faſt, *the Paſchal faſt*, meaning that then began the Jewiſh paſſeover, and then Chriſt our Paſſeover was offered for us. So *Tertullian*, *Sic & die Paſchæ, quo communis & quaſi publica jejunii religio eſt, merito deponimus oſculum*, &c. The day of the Paſch is a publick and a common day for the religion of faſting; which becauſe it was never true of Eaſter-day, and being always true of good-friday, he muſt mean this. 3. Becauſe it is very probable that the Eaſter feſtival was *in uſe*, though *not commanded*, in the Apoſtles time, therefore becauſe they kept the memorial of the reſurrection the firſt day in every week; and therefore *Socrates* could not in all likelyhood mean that day, but the *Paſcha paſſionis*, *the Paſchal paſſion*, not the Paſchal reſurrection. And then upon this account, though this fifth argument will not prevail, it is becauſe we need it not; for

Hiſt. lib. 12. c. 32.

lib. de Orat. c. 14.

Vide lib. 2. Chapt. 2. Rule 6. Numb. 55, 56.

whatever deſtroys the premiſſes in this caſe, does eſtabliſh the Concluſion. For if by *Paſcha* he means the Paſchal faſt, that is, good-Friday, then he gives teſtimony, and that very conſonantly to the prime antiquity, that it was left free and undetermin'd by Chriſt and his Apoſtles: but if he ſhould mean the Eaſter feaſt, and did ſay true, yet it will follow from hence, that much more muſt the preceding faſt be left undetermin'd.

14. 6. If any man ſhould ſay that Kings are all created, as *Adam* was, in full ſtature and manhood by God himſelf immediately, he could beſt be confuted by the midwives and the nurſes, the School-maſters and the ſervants of the family, and by all the neighbourhood, who ſaw them born infants, who took them from their Mothers knees, who gave them ſuck, who carried them in their armes, who made them coats and taught them their letters, who obſerved their growth & chang'd their miniſteries about their perſons. The ſame is the caſe of the preſent article. He that ſayes our Lent, or forty days faſt before Eaſter, was eſtabliſhed by the Apoſtles in that full growth & ſtate we now ſee it, is perfectly confuted by the teſtimony of thoſe ages that ſaw it's infancy & childhood, & help'd to nurſe it up to it's preſent bulk.

15. For it is not to be denied but that from the very firſt ages of the Chriſtian Church of which we have any records, it was with ſacredneſſe and religion obſerved that before the feaſt of Eaſter they ſhould faſt. Τὼ ἡσεῖαν τὸ πάσχα S. *Clement* calls it; τὰς φαδεδομένας νησείας εἰς τὸ κοινὸν, καὶ φυλασσομένας ὑπὸ τῆς Ἐκκλησίας, ſo the Council of *Gangra* about the time of the *Nicene* Council, *the faſts which were delivered in common, and obſerved by the Church*; τὰς ὡρισμένας νησείας, *the appointed faſts*, ſo *Conſtantine* call'd them. But this Paſchal faſt was nothing like ours, it was not our Quadrageſimal; it was but a faſt of one or two days at firſt and in ſome places. For at firſt the Chriſtians were very ſhie of receiving any load of ordinances and burdens to their conſciences, as ſoon as ever they had entred into the liberty of Chriſtians. They did all that reaſon, and all that love would require: but if love was the parent of their obſervations, they would doe them in love, and not in neceſſity, leſt they ſhould be again intangled in a yoke of bondage. That they kept their faſts with liberty, beſides the foregoing teſtimonies, is expreſſely affirmed by *Theodoret*, who blaming the heretics that abſtain'd from fleſh and wine as being abominable, *Eccleſia vero* (ſaith he) *de his nihil præcipit: neque enim horum uſum interdicit. Ideo alii quidem permiſſis voluptatibus ſecuri fruuntur, alii verò abſtinent: & nemo qui rectè ſapiat condemnat eum qui comedit; nam & abſtinentia & participatio ſunt in mentis poteſtate.* But the Church commands nothing in theſe things, and forbids not to uſe fleſh and wine; and therefore ſome enjoy them freely, others doe abſtain, and no wiſe man condemns him that eats: for to eat or to abſtain is in the power of every mans will. Now if the Church had from the Apoſtles receiv'd a law of the Lent-faſt, or if in the Church there had been a law to command abſtinence from fleſh in Lent, it had not been truly ſaid of *Theodoret*, *Eccleſia de his nihil præcipit*; for a commandement for a time and a revolving period, certainly is a commandement. But this further appears in the variety which is in all the actions and minds of men when they are at their own choice. Of this a fragment of *Irenæus* mention'd by *Euſebius* is a great teſtimony: for there had been an unlucky difference between the Weſtern and Eaſtern Churches about their keeping of Eaſter, and Pope *Victor* was

apud Socrat. lib. 2. Hiſt. cap. 3.

lib. 5. Hæretic. fabul. cap. 29.

lib. 5. Hiſt. cap. 26.

tranſported

transported into heats upon the question, and received from S. *Irenæus* this sober advertisement, *For there is not onely a controversy about the day of Easter, but about the kind of fasting. For some suppose they ought to fast but one day, others two, others more; some measure their day by forty hours of day and night. And this variety of them that observe the fasts did not begin in our age, but long before us with our Ancestors, who, as it is likely, retaining a custome introduc'd by simplicity and a private choice, did propagate it to posterity. And yet nevertheless all these liv'd peaceably one with another, and we also keep peace together; for the difference of the fast is so far from violating the agreement of faith, that it does commend it rather.* Here was the Paschal fast observ'd by all men, but with great variety and a proportionate liberty. The cause of the variety was this, which was also the ground of their practice. They thought that the words of Christ, [*when the bridegroom shall be taken from them, in those days shall they fast*] were to be meant of the interval of Christs death and burial, as we learn from *Tertullian*. Now because it was but one whole day that Christ was in the grave, some fasted but one day, beginning on the Friday afternoon. Others consider that Christ was about 40 hours dead, and the bridegroom was absent so long; and therefore reckon'd their fast to 40 hours, beginning from the ninth hour on good-Friday, & eating nothing till the morning of Easter day: and this was the most severe and the most prevailing amongst them; and this is the τεσσαρακοστὴ the quadragesimal fast, this gave occasion to the name, which was kept when the forty hours was chang'd into forty dayes, and new analogies and new reasons found out for it, and their fasting for the absence of the bridegroom was chang'd into a fasting in imitation of *Moses* and *Elias* and our Blessed Saviour in the wilderness. Onely by the way let me observe that at first they had no appointed fasts, but of those hours in which the bridegroom was taken from them, that is, none but the Paschal fast; as *Tertullian* expressely affirms, *illos dies jejuniis determinatos putasse in quibus ablatus est sponsus, & hos esse jam solos legitimos jejuniorum Christianorum, The Catholics had no other days appointed for fastings, no other were the legitimate fasting days for Christians* (as they thought) *but onely those in which the Bridegroom was taken from them.*

lib. de Jejun. c. 14.

lib. de Jejun. cap. 2.

16. But S. *Irenæus* said that some fast one day, some two, and others more. Some kept the whole six days of the Passion week; we find mention made of it in *Dionysius Alexandrinus* about the 255th year of Christ, τὰς ἐξ τῶν νηστειῶν ἡμέρας, *the six days of fasting*; but he affirms that all doe not equally observe them. For some fast all the six days, some two, some three, some four, some none. But by *Epiphanius* his time the fast had possess'd the whole six days almost every where, πὰς ἓξ ἡμέρας τὸ πάσχα ἐν ξηροφαγίᾳ διατελοῦσι πάντες οἱ λαοὶ, *All the people spend the six days of the Pasch, or before Easter, in dry diet:* but by this time the word τεσσερακοστὴ or Quadragesima had prevail'd, and was us'd to signify the Paschal fast. The word was us'd in the Council of *Nice*, which commanded two Synods every year to be held in the Provinces, and the first of them to be ἐν τεσσερακοστῇ *in the Quadragesimal fast.* But this did not signify the fast of forty days, for that was not yet brought into the Church.

Epist. can. ad Basil.

lib. 3. Exp. fidei & hæres. 75.

17. But first the matter is clear that the word *Quadragesima* is often us'd in antiquity and by other good Authors to signify a set time of fast, but plainly lesse then forty days. S. *Hierom* sayes that the Montanists doe make *tres*

Epist. 54. ad Marcel.

in anno quadrageſimas, three Lents; and yet two of them were but of five days a piece, and whether the third was more or leſſe we cannot tell: and this *Tertullian* plainly affirms, who was himſelf a Montaniſt. And this thing alſo came into the practice of ſome Catholics; for they did ſo too in the time of *Amalarius*, they kept *tres quadrageſimas, three quadrageſimal faſts*; and yet that before Midſummer and that before Chriſtmas were much ſhorter then forty days. The ſame word is ſeveral times uſed by [a] *Rabanus Maurus* and [b] *Durandus*. But that the uſe of the word may be no prejudice to the right underſtanding of the thing, we find the thing noted by [c] *Socrates* and wondred at exceedingly, that ſince there was ſo great difference in the number of days, yet all alike called it τεσσαρακοστὴ, or *the quadrageſimal faſt*. The ſame alſo we find in [d] *Sozomen*, noting that ſome did onely obſerve three weeks of five days to the week, out of the number of the ſeven antepaſchal weeks, and yet nevertheleſſe called it *Quadrageſima*: and the ſame alſo we find in *Nicephorus*, who (I ſuppoſe) tranſcrib'd it from them: and in *Caſſian*'s time, when the Lent-faſt came up to the number of 36 days, yet he ſtill calls it the *Quadrageſima* or *the 40 days faſt*: and it is no wonder, if *Rigaltius* ſay true, that all the ſet and ſtationary faſts of the Primitive Chriſtians were called *Quadrageſimals*. But the firſt uſe of the word is in the *Nicene* Council; unleſſe the words of *Origen* be allowed to be good record: but yet both in *Origen*, and in the *Nicene* Council, though the word be us'd, yet without any remark of the number of the days, or intimation of it, untill the Council of *Laodicea**, which mentions more weeks then one in the Lent, commanding to faſt alſo upon *the Thurſday of the laſt week in Lent*. For by this time it was come to three weeks, in ſome places more, and in ſome leſſe, as appears in *Socrates*, *Sozomen*, *Caſſian* and *Nicephorus* above quoted.

lib. de jejun. c. 15.

lib. 4. de offic. Eccleſ. c. 37.

a lib. 4. de inſtit. Cleric. c. 1.

b lib. 6. Rationali. de 1a 40ma Dominic.

c Hiſt. lib. 5. c. 22.

d lib. 7. cap. 19.

in notis ad Tertull. de jejun.

* A. D. 460. Can. 50.

18. But for the reaſon of the word *Quadrageſima* there are various conjectures. *Caſſian* ſays it is an imitation of Chriſts faſt of forty days, and ſo had the name from thence. But he addes ſome little Cabaliſtical things of the number of forty in the Scripture, which are to no great purpoſe. But his firſt conjecture is not altogether unreaſonable; and *Rigaltius* makes uſe of it, ſaying that the Apoſtles having obliterated the Jewiſh faſts, to which Chriſts forty days faſt put an end, and aſſerted us into liberty, they would upon that day on which Chriſt wrought our liberty for us, *nailing the handwriting of ordinances to his Croſſe*, conſecrate a faſt to the memorial of this great work of redemption for us; [*ut obliteratis Judæorum Sabbatis jejunia ſua Chriſtiani, quæ Domino ſuo tantula pro tantis offerrent, de jejunii Dominici ſpatio vocitarent*] *that the Chriſtians might call their faſt by a name taken from the duration of the Lords faſt, that ſince they could not attain to that great faſt, they might at leaſt have it in venerable memory.* But this although it be ingenious and pretty, yet it is ſomething violent, and hath no warrant from antiquity; and the queſtion is better anſwer'd from the words of *Irenæus* in *Euſebius*, who ſayes that they who kept the Paſchal faſt would ſome of them produce the faſt to forty hours: now the whole faſt being in memory of the bridegrooms being taken away, and he having been abſent, as they computed it, forty hours, this proportion did better carry the analogy, and therefore eaſily carried away the name, and a quadrageſimal of hours is as proper as a quadrageſimal of days, and hath a better warranty then any other conjecture. But this I remark'd before.

Collat. 21. cap. 28.

ubi ſuprà

But

19. But afterwards the number of weeks increas'd: it came in some places to six and seven weeks; so *Cassian*. But it was *diverso more*, for some would fast Saturdays, and some would not; but they made it but to be 36 days however: so we find it in S. *Gregory*, that 42 days were the appointment of Lent, but taking away the Sundays, six and thirty days remain for fasting. But in all this whole affair there was nothing yet universally determin'd by any law of the universal Church. *For in* Rome *about the year* 437 *they fasted but three weeks before Easter*, [and out of them they excepted Saturdays and Sundays*.] *But in Illyricum, in Greece & Alexandria they begin their Lenten fast above six weeks before Easter. Others begin seven weeks before Easter, but fast by intervals, and observe but fifteen days in all: and yet all call this the quadragesimal fast.* So * *Socrates*. And S. *Chrysostom* sayes it was the custome against Easter to ask every one how many weeks he had fasted; and you should hear some answering *two*, some *three*, some *all*. For at *Constantinople* the Lent was longest: It was of seven weeks there and all up unto *Phœnicia*, as *Sozomen* and *Nicephorus* report: but all this while with liberty, by custome, and without a law. S. *Austin* tells that in some places they would not fast the Thursdays in Lent: indeed the Council of *Laodicea* had commanded they should, but that was but provincial, and did not oblige and was not received every where; and that saying which is reported out of the constitutions of S. *Clement* might prevail as far, *Jejunium quintæ hypocritarum est*. But at *Rome* this was then observed, they did not fast on Thursdays, nor yet on Tuesdays, or they might chuse: so we find in S. *Leo* exhorting them to the Monday, Wednesday, Friday and Saturday fast, and on Saturday to watch beside. And because of the defalcation of these days in every week, some that were very zealous made up their Lent to be eight weeks, and began it on *Sexagesima* Sunday, but at last it setled upon Ash-wednesday, and hath endur'd so to this day in many of the Western Churches.

Collat. 21. c. 27.

lib. 40. Homil. Hom. 16.

* *Hæc clausula inseritur in loco non suo: oportuit enim post narrationem de Ecclesiis Græcâ & Alexandrinâ interseri. Videat lector Hugonem Menardum in notis ad Gregor. Sacram. qui etiam aliter emendat hunc locum satis mendosum.*

* lib. 5. c. 22.

Homil. 16. ad pop. Antioch.

lib. 7. c. 19.

lib. 12. c. 34.

Epist. 118. ad Januar.

Serm. 4. de 40ma

20. Now if all this be not sufficient to prove that the forty days fast of Lent was not a Canon or institution Apostolical, I cannot tell by what measures the question can be filled: and if the Apostles were the Authors of it, yet because the Churches kept themselves in great liberty and variety, it is certain that if they did so still, there would be no diminution to religion. For the use of it being wholly for preparation to the Easter communion, and the setting apart some portion of our time for God's service, it can then onely be of use, when it ministers to such ends with an advantage so great as to recompence the trouble, and so material as to quit it from a vain observance. * But how it can be enjoyn'd, and how it ought to be practis'd, I shall consider in the inquiries concerning the condition of Ecclesiastical laws. Here I was onely to quit the Conscience of this snare which is laid for her by some unskilfull Fowlers, and to represent that the Apostles did not by any Rule or Canon oblige the Christian Churches.

21. That which remains is this, that we consider that it is and ought to be no prejudice to this liberty, that S. *Hierom* calls Lent an Apostolical tradition. For it was very easy for them who lov'd the institution, and knew it very ancient, and that the custome of it did descend from Apostolical persons, to call it *a tradition Apostolical*. It is no wrong to S. *Hierom* if we

think he did ſo here: for he did as much as this comes to in the queſtion of the Saturdays faſt, for in his Epiſtle to *Lucinus* he ſayes, *Unaquæque provincia abundet in ſenſu ſuo, & præcepta majorum leges Apoſtolicas arbitretur, Let every Province abound in their own ſenſe, and ſuppoſe the precepts of their Anceſtors to be Apoſtolical laws.* But that the Churches had no ſuch law upon them, but were at liberty, appears from all the premiſſes; which I ſumme up with the words of S. *Auſtin.* The Chriſtians, not that the meats are unclean, but for mortification, doe abſtain from fleſh and fruits; ſome few always, or elſe at certain times: *Sicut per quadrageſimam ferè omnes, quanto magis quiſque vel minus voluerit, ſeu potuerit, As in Lent almoſt all men, more or leſſe according as every man is able, or as every man is willing.*

contr. Fauſtum Manich. l. 30. cap. 5.

22. He that deſires to ſee more particulars concerning the hiſtory, the original, the variety and increaſe of Lent, may, if he pleaſe, read them in *Caſſian*, in *Amalarius*, *Alcuinus* & *Rabanus* of old, and of late, in *Durandus*, in *Hugo Menardus* a Benedictine his notes in *Gregor. Sacramentarium*, in *Petavius* his notes upon *Epiphanius*, *Rigaltius* upon *Tertullian*, *Scaliger*'s admirable animadverſions upon *Euſebius*, in that excellent Epiſtle of *Eraſmus* to the Biſhop of *Baſil de interdicto eſu carnium*, in *Delaunoy*, *Fileſcac* and *Daille**. Out of theſe any man may ſatisfy his curioſity; I have endeavour'd onely to ſatisfy the Conſcience.

* de jejuniis & 40ma

23. Concerning the weekly faſts of Friday and Saturday, the former of them is of great antiquity in the Church, as being in uſe in *Tertullian*'s time, and without variety alwayes obſerved after it once began. We find the Wedneſday and Friday faſt mentioned by *Clemens Alexandrinus*, and the Wedneſday ſtation is equally in *Tertullian*. But the Saturday faſt was for ſome ages counted abominable in the whole Church; but it came into the Latin Church in time, but with ſo much ſcandal to the Greeks, that in the year of our Lord 707 they excommunicated them that faſted on the Saturday, and to this day perſevere in the ſame mind. But that neither one nor the other was of Apoſtolical inſtitution, is of it ſelf clear by the conſequence of the former diſcourſe concerning Lent; the Apoſtles having made no laws concerning faſting-days, as I have made apparent. * The Rogation faſt (all the world knows) was inſtituted by *Mammercus* Biſhop of *Vienna*: and as for the Ember-weeks, they can pretend to no antiquity that is Primitive, and rely for their authority upon a ſpurious epiſtle of Pope *Calixtus*, which is pretended to have been written about the year 221, and which is abundantly detected of forgery by many perſons, but eſpecially by M^r *Blondel*. *Tertullian*'s words are a hatchet to cut off all faſting-days from pretending to Apoſtolical authority, affirming that the Montaniſts did faſt but two weeks in the whole year, and in them not on Saturdays and Sundays (though S. *Hierom* is pleas'd to lay three Lents to their charge,) and that the Catholics blam'd them for impoſing ſo much; but themſelves did faſt onely upon thoſe days the bridegroom was taken from them, that is, the paſchal faſt; that they did ſometimes interpoſe half faſts, and live on bread and water for ſome time, but *ut cuique videbatur, hæc ex arbitrio agentes, non ex imperio, as every man ſaw cauſe, doing theſe things by choice and not by command.*

Strom. at. 7.

Contra Psych. c. 2. 13, 15.

The

24. The result of this discourse is this, That the Apostles did not lay a yoke upon the Disciples neck in the matter of fasting, much lesse in the forty days fast of Lent; that as in relation to the Apostles, the Conscience is at liberty. Now whether or no any positive constitution of the Rulers of our Churches can or doe oblige the Conscience to the observation of Lent, and how farre, I shall consider in the next Paragraph of this Chapter.

RULE XIV.

The Canons of the ancient General and Provincial Councils are then laws to the Conscience when they are bound upon us by the authority of the respective Governours of Churches.

1. A General Council is nothing but the union of all the Ecclesiastical power in the world. The authority of a General Council in matters of Government and Discipline is no greater, no more obligatory then the authority of a Provincial Council to those who are under it. A General Council obliges more Countries and more Dioceses, but it obliges them no more then the Civil and Ecclesiastic power obliges them at home A General Council is an Union of Government, a consent of Princes and Bishops, and in that every one agrees to govern by the measures to which there they doe consent: and the consent of opinions addes moment to the laws, and reverence to the sanction; and it must prevail against more objections then Provincial decrees, because of the advantage of wisdome and consultation which is suppos'd to be there, but the whole power of obligation is deriv'd from the Authority at home. That is, if twenty Princes meet together and all their Bishops, and agree how they will have their Churches governed, those Princes which are there and those Bishops which have consented are bound by their own act, and to it they must stand till the reason alters, or a contrary or a better does intervene; but the Prince can as much alter that law when the case alters, as he can abrogate any other law to which he hath consented. But those Princes which were not there, whatever the cause of their absence be, are not oblig'd by that General Council; and that Council can have no authority but what is given them by consent, & therefore they who have not consented, are free as ever.

2. The Council of *Florence*, so called because, though it was begun at *Ferrara*, yet it was ended there, Pope *Clement* 7th calls the eighth General Council in his Bull of April 22th 1527. yet others call it the 16th: but it was never receiv'd in *France*, as *Panormitan* * tells us: for the King of *France* did forbid expressely and upon great penalties that any of his subjects should goe to *Ferrara* to celebrate that Council; and after it had been celebrated, and *Charles* the 7th was desir'd by Pope *Eugenius* to accept it, he told the Legates plainly, that he had never taken it for a Council, and he never would. The Council of *Basil*, though the King of *France* had sent his Embassadors thither, and had received it as a Council, yet he approved it but in part, for he rejected the last thirteen sessions, and approv'd onely the

* Vide Surium in Epist. ad lectorem, ante Concil. Ferrar. tom. 4. Concil. * in Tract. de Concil. Basil. circa princ. n. 6. Vide etiam Nicolaum de Clemangiis

Vide proœmiú pragmat. Sanct. Guil. Benedict. in repetit. cap. Raynutius.

the first two and thirty; some of them as they lie, others with certain forms and qualifications: and this was done to fit and accommodate them to the exigencies of the times and places and persons, saith *Benedict* a *French* lawyer. And upon the like accounts the last Council of *Lateran* is there rejected also. Thus in *England* we accept not of the Council of *Trent*, and excepting the four first General Councils, which are established into a Law by the King and Parliament, there is no other Council at all of use in *England*, save onely to entertain scholars in their arguments, and to be made use of in matters of fact, by them to understand the stories of the Church. Where any thing else is received into custome and practice of law, it binds by our reception, not by it's own natural force.

3. But I have already spoken sufficiently of this thing*. I now onely mention it to the purpose that those religious and well-meaning persons who are concluded by the canon of an Ancient Council, and think that whatever was there commanded it layes some obligation upon the Consciences of us at this day, and by this means enter into infinite scruples and a restlesse unsatisfied condition, may consider that the Ancient Doctors of the Church had no jurisdiction over us who were born so many ages after them; that even then when they were made they had their authority wholly from Princes and consent of Nations; that things and reasons, that jurisdictions and governments, that Churches and Dioceses, that interests and manners are infinitely alter'd since that time; that since the authority of those Fathers could not be permanent and abide longer then their lives, it being certainly not greater then that of Kings, which must needs die with their persons, that their successors may be Kings as well as they, and not be subjects of the dead, the efficacy of their rules must descend upon succession by a succeeding authority; that therefore they prevail upon us by a new force, by that which is extrinsecal to them; and therefore in such cases we are to inquire whether the thing be good, and if it be, we may use it with liberty till we be restrained, but we may also chuse; for then we are to inquire whether the thing be a law in that Government to which we owe obedience: for that the Fathers met at *Laodicea*, at *Antioch*, at *Nice*, at *Gangra*, a thousand, 1100 or 1300 years agoe, should have authority over us in *England* so many ages after, is so infinitely unreasonable, that none but the fearfull and the unbelievers, the scrupulous and those who are δοῦλοι τῇ φύσει *of a slavish nature*, and are in bondage by their fear, and know not how to stand in that liberty by which Christ hath made them free, will account themselves in subjection to them. If upon this account the Rulers of Churches will introduce any pious, just and warrantable Canon, we are to obey in all things where they have power to command; but the Canon, for being in the old Codes of the Church, binds us no more then the laws of *Constantine*.

* Chapter 3. Rule 7. and Chapter 4. Rule 5.

RULE XV.

The laudable Customes of the Catholick Church which are in present observation doe oblige the Conscience of all Christians.

1. THis we have from S. *Paul*, who reproves the contumacy and regardlesse comport of those who, against the usages of Christians and the places where they liv'd, would wear long hair : *We have no such custome, nor the Churches of God.* In such cases where there is no law, the manners of Christians introduce a law so far, that we cannot recede from it without some probable cause ; or if we doe, we cannot doe it without scandal and reproach. And indeed it is an act of love to conform to the customes of Christians with whom we doe converse, who either will think you blame their custome, or despise their persons, if you comply not. S. *Austin* gave his advice to the same purpose, *In his rebus de quibus nihil certi tradit scriptura Divina, mos populi Dei vel statuta Majorum pro lege tenenda sunt. Et sicut prævaricatores divinarum legum, ita contemptores Ecclesiasticarum consuetudinum coercendi sunt. If the holy Scriptures have not interpos'd in the particular, we must keep the customes and decrees of our Ancestors as a law: and as they that prevaricate the Divine laws are to be restrained, so are all they that despise the customes of the Church.* * It is a Catholic custome, that they who receive the Holy Communion, should receive it fasting. This is not a duty commanded by God : but unlesse it be necessary to eat, he that despises this custome, gives nothing but the testimony of an evil mind.

Epist. 76. ad Casulanum Presbyter.

2. But this is first to be understood in such Customes as are laudable, that is, such which have no suspicion or moral reproach upon them, such which are reasonable and fit for wise and sober persons. It was a custome of the Primitive Church, at least in some places, not to touch the earth with the bare foot within the Octaves of Easter : this was a trifle, and tending to phantastic opinions and superstitious fancies, and therefore is not to be drawn into imitation ; onely so long as it did remain, every man was to take care he gave no offence to weak persons, but he was to endeavour to alter it by all fair means and usages. It was a custome in many Churches anciently, and not long since in the Church of *England*, that in cases of the infants extreme danger the midwives did baptize them. This custome came in at a wrong door, it lean'd upon a false and superstitious opinion ; and they thought it better to invade the Priests office, then to trust God with the souls which he made with his own hands and redeem'd with his Sons bloud. But this custome was not to be followed if it had still continued ; for even then they confess'd it was a sinne, *factum valet, fieri non debuit* ; and evil ought not to be done for a good end. *Quod si à mulieribus baptizari oporteret, profecto Christus à Matre baptizatus esset, & non à Joanne : aut cum nos ad baptizandum misit, misisset mulieres nobiscum ad hoc : nunc vero nusquam neque jußit Dominus, neque per Scripturam tradidit, utpote qui naturæ convenientiam & rei decorum nosset, tanquam naturæ author & legislator*, said the Author of the Constitutions under the name of S. *Clement*.

lib. 3. c. 9.

If

If women might be ſuffer'd to baptize, Chriſt need not have gone to S. John, *but might have been baptized by his Mother; and Chriſt would have ſent women along with the Apoſtles when he gave them commiſſion to preach and to baptize. But now our Lord hath neither commanded any ſuch thing by his word, or in Scripture; for the author and law-giver of Nature knew what was agreeable and decent for their Nature.* To this agrees that of *Tertullian*, lib. de Virg. veland. *Non permittitur mulieri in Eccleſia loqui, ſed nec docere, nec tingere, nec offerre, nec ullius virilis muneris nedum ſacerdotalis officii ſortem ſibi vendicare, A woman is not permitted to ſpeak in the Church, nor to teach, nor to baptize, nor to offer, nor to doe the office of a man, much leſſe of a Prieſt.* *ſee the Divine inſtitution of the order and offices Miniſter. ſect. 4. * This cuſtome therefore is of the nature of thoſe which are to be laid aſide. Οὐδεὶς βαπτίζει εἰ μὴ χειροτονίαν ἔχει, *No man baptizes but he that is in holy Orders*, ſaid *Simeon of Theſſalonica*; and I think he ſaid truly. But above all things, opinions are not to be taken up by cuſtome, and reduc'd to practice: not onely becauſe cuſtome is no good warranty for opinions, and *voluntas fertur carere oculis, intellectus pedibus, the will hath no eyes, & the underſtanding hath no feet*; that is, it can doe nothing without the will, and the will muſt doe nothing without that; they are a blind man and a lame when they are aſunder, but when they are together they make up a ſound man, while the one gives reaſon, and the other gives command: but beſides this, when an opinion is offer'd onely by the hand of cuſtome, it is commonly a ſigne of a bad cauſe, and that there is nothing elſe to be ſaid for it; and therefore Diſput. 18. in 1 Cor. 11. in ſolut. 8vi. dub. it was a weakneſſe in *Salmeron* to offer to perſuade us to entertain the doctrine and practice of Indulgences, Purgatory, Invocation of Saints, Images and the like, becauſe they are cuſtomes of the Church, meaning his own.

3. 2. This is to be underſtood alſo of the Cuſtomes of the Catholick Church. For if the Churches differ, it is indifferent to take either lib. 3. Pædagog. cap. 3. or neither as it may happen. *Clemens Alexandrinus* ſaid it was a wickedneſſe to pull the beard, becauſe it is our natural, it is a generous and an ingenuous ornament: and yet *Gregory* the 7th, Biſhop of *Rome*, made Arch-Biſhop *James* ſhave his beard cloſe, pretending that it had been always a lib. 8. Regiſtri, Epiſt. 10. cuſtome in the Weſtern Churches; *Conſuetudini ſanctæ obedire coegimus, We have conſtrained him to obey the holy cuſtome.* In ſuch caſes where ſeveral Churches have ſeveral uſages, every Church is to follow her own cuſtome, and every of her ſubjects to obey it.

4. 3. Though every ſubject is tied to the cuſtome of his own Church, yet he is not to give offence when he converſes with another Church that hath a differing cuſtome: according to that rule and example of S. *Ambroſe*, *Quando hic ſum, non jejuno Sabbato; quando Romæ ſum, jejuno Sabbato: & ad quamcunque Eccleſiam veneritis, ejus morem ſervate, ſi pati ſcandalum non vultis aut facere, When I am at* Millain *I doe not faſt on the Saturday, when I am at* Rome *I doe: and to whatſoever Church you ſhall come, keep the cuſtome of that Church, if ye will neither give nor receive offence.* And theſe Epiſt. 118. words S. *Auſtin* made uſe of to this very purpoſe, *Totum hoc genus liberas habet obſervationes, nec diſciplina ulla eſt in his melior gravi prudentique Chriſtiano, quam ut eo modo agat quo agere viderit Eccleſiam ad quamcunque fortè devenerit.* The beſt way is to doe as that Church does where you happen to be. And in the ſame inſtance S. *Hierom* gave anſwer to *Lucinus*, *ſervandam eſſe propriæ Eccleſiæ conſuetudinem*, The cuſtome of the place of our own Church is to be obſerved. And therefore at *Millain* it is counted

counted a violation of their rights when the *Roman* Prieſts come into the *Ambroſian* Churches, and refuſe to uſe the Miſſal of S. *Ambroſe*, but uſe the *Roman*. It is a cuſtome in the Church of *England* to uncover the head or to bow the knee when the name of *Jeſus* is named: the cuſtome is not onely innocent but pious, and agreeable to the duty of every Chriſtian, and therefore abſtracting from the injunction, the cuſtome it ſelf is ſufficient to exact conformity of all modeſt perſons. But if a ſon of the Church of *England* ſhall come into other Proteſtant Churches who uſe it not, he is to comply with them in the omiſſion, unleſſe himſelf be perſuaded that it is a Divine Commandement; and yet even then alſo, the ſpecification and the circumſtances of time and place may be undetermin'd, and leave him in a capacity to comply for a time, and in a limited place.

5. 4. It is requir'd that the cuſtome be of preſent obſervation, or elſe it does not oblige the Conſcience. Thus it is a cuſtome of the Catholic Church that at the Baptiſing of Infants there be God-fathers and God-mothers. This cuſtome is ſtill of uſe in the Church of *England*: and although much of the reaſon for which they were firſt introduc'd is ceas'd, and the caſe alter'd; yet it is enough to every man that is a ſubject, that it is the cuſtome: and therefore if any man ſhall diſpute and prove that the thing it ſelf is not now neceſſary, that is no warranty to him to omit it, ſo long as the cuſtome is allowed & upheld, & is no evil. But if the cuſtome be left in a Church, that it was a Catholic cuſtome & of long uſe in the Church is of no obligation to the Conſcience. *Socrates* tells that *omnes ubique in orbe terrarum Eccleſiæ*, all the Churches in the world, every week upon Saturday celebrate the myſteries. *Alexandrini tamen & Romani ex antiqua traditione iſtud facere renuunt.* But the Churches of *Alexandria* & *Rome* refuſe to doe ſo, becauſe they have an ancient tradition to the contrary. And in this they had their liberty. It was a long & a general cuſtome in the Church upon all occaſions and motions of ſolemnity or greater action to make the ſigne of the Croſſe in the aire, on the breaſt, or on the forehead; but he that in *England* ſhould doe ſo upon pretence becauſe it was a Catholic cuſtome would be ridiculous. For a cuſtome obliges by being a cuſtome amongſt them with whom we doe converſe, and to whom in charity and prudence we are to comply: and therefore to doe an action that was a cuſtome there where it is not a cuſtome, muſt be done upon ſome other reaſon then becauſe it is a cuſtome; or elſe it is done becauſe there is no reaſon. It was a cuſtome of the Catholic Church to reſerve infants all the year till Eaſter to be baptiz'd, except it were in caſes of neceſſity or great danger: but *we have no ſuch cuſtome* now; *nor the Churches of God*; and therefore to think we are bound to comply with that or any ſuch cuſtome, is to make our ſelves too fond admirers of the actions, and more then ſervants to the ſentences and cuſtomes of Ancient Churches.

lib. 5. Hiſt. cap. 21.

6. 5. An Eccleſiaſtical cuſtome againſt an Eccleſiaſtical law does not oblige the Conſcience. It does in many caſes excuſe, but when there is no ſcandal accidentally emerging, it never binds us to follow it. I ſay it can excuſe from penalty, then when the Eccleſiaſtical law hath been neglected, becauſe the Governours are preſumed to doe their duty; and therefore if they who made the law ſuffer it to be commonly broken, it is to be ſuppos'd they are willing the law ſhould die: and this is the ſenſe of that in the Comedy, *Mores leges perduxerunt jam in poteſtatem ſuam*, Cuſtomes give limit

Plaut. Trinum.

limit to laws; and they bind according as the manners of men are. And this the lawyers extend even to a cuſtome that is againſt the law of God. So the Preſidents of *Sena* at the entry into their office take an oath in form that they will never receive bribes; and yet they doe ſo, and are known to doe ſo, and becauſe of the general cuſtome are never puniſh'd: and much of the ſame nature are the oaths taken at the Matriculations and admiſſions into Univerſities and offices reſpectively, concerning which it were very well there were ſome remedy or prevention. But if it can be underſtood that the law-giver intends the law ſhould be in force, and that the negligence of his Miniſters or the ſtubborn and uncomplying nature of the ſubjects is the cauſe of the want of diſcipline; then the conſcience is oblig'd to the law, and not excus'd by the cuſtome*. And yet further, when the law is called upon, then although there be a cuſtome in the Church againſt the Canon, it neither preſerves from ſin, nor reſcues from puniſhment: *quia lex derogat conſuetudini*, ſay the lawyers; when the law is alive the cuſtome is dead, becauſe the cuſtome took it's life from the diminution of the law; and when there is a law actually called upon, the cuſtome to the contrary is a direct evil, and that againſt which the law is intended, and which the law did intend to remedy. The Church hath made laws that no man ſhall faſt upon the Lords day, nor the great Feſtivals of the year: if a cuſtome of faſting upon Chriſtmas-day ſhould in evil and peeviſh times prevail, and the law be unable or unwilling to chaſtiſe it, but ſuffer it to grow into evil manners; when the law is again warm and refreſh'd and calls for obedience, the contrary cuſtome is not to be pretended againſt the law, but to be repented of. In the Church of *England* there is a law, that when children are baptized they ſhall be dipped in the water; onely if they be ſick it ſhall be ſufficient that it be ſprinkled upon them: but yet the cuſtome of ſprinkling all does prevail. In this caſe we are to ſtand to the law, not to the cuſtome, becauſe the law is ſtill in force, and is actually intended to prevail according to the mind of the Church, and it is more agreeable with the practice, the laws and cuſtomes of the Primitive Church, and to the practice of Chriſt and his Apoſtles. But of this I ſhall ſpeak again in ſome of the following Numbers.

Paldus in l. obſervare, §. prohciſci, circa fin. ff. de officio proconſul. & leg.

* See the VIth Rule of the laſt Chapter of this Book.

7. 6. An Eccleſiaſtical cuſtome muſt be reaſonable or uſefull, or it cannot oblige the conſcience, except to avoid ſcandal, for that is in all things carefully to be obſerved, right or wrong, ſo it be not a ſin againſt God; Cuſtomes muſt be kept, when the breaking them is ſcandalous. But excepting this caſe, an unreaſonable cuſtome does not oblige. For no man is bound to be a fool, or to doe a fooliſh action. Now a cuſtome in the Canon law is concluded to be reaſonable if it tends to the good of the ſoul. In the Civil law it is allowed to be reaſonable if it tends to any publick good. Thus it is a cuſtome that Judges ſhould wear their Robes upon their ſeates of judicature; that the Clergy wear blacks. *Doctores portant varium, quia habitus virum oſtendit*, ſaith the law, *l. ſtigmata, C. de fabri.* And that Prieſt were a ſtrange peeviſh or a weak perſon who ſhould chuſe to wear gray, becauſe there is no religion *in the colour*: his religion in this would have nothing elſe: and though theſe things tend not to the good of the ſoul, yet they tend to the good of the publick, they diſtinguiſh men, that honour may be given to them to whom honour belongs.

For

8. For it is conſiderable, what the wiſer Lawyers ſay, 1. That a cuſtome is good if it contains *bonum honeſtum*, any honeſty or matter of publick reputation. Thus it is a cuſtome that civil perſons ſhould not walk late in the night, but be in their houſes at ſeaſonable times; it is a good cuſtome that Biſhops and Prieſts abſtain from going to Taverns; this cuſtome is reaſonable, and therefore does oblige thoſe that are concerned in it. 2. A cuſtome is good if it contains *bonum commune*, if it be for the common good: and of this ſort there are many cuſtomes in every nation which are paſs'd into laws, as that in the cauſe of Dowries the Judge ſhould proceed ſummarily; that a fact be tried in the country where it was done; that when any man is accuſed he ſhould have his accuſers brought before his face. And thus alſo in the laws Eccleſiaſtical there are very many of this nature; as that when Biſhops viſit their Churches there be allowance of procurations and Synodals, and aptneſſes for their entertainment; that when we ſee a Biſhop we beg his bleſſing; that when we come to a city we firſt goe to the Cathedral to pray, then to the Biſhop to be bleſs'd and prayed for; that the contract of Marriage be publickly ſolemniz'd in Churches after three publications; that children ask their Parents benediction: theſe things are of publick uſe, for the advancing of a neceſſary duty, for the mutual endearment of Relatives, for the eſtabliſhment of piety, for the conciliating authority, and to many other good purpoſes, which whoſoever can advance by the keeping of a cuſtome & complying with the manners of the Church where he lives, is not to be excus'd if he will be ſtubborn and ſingular and proud. 3. *Baldus* ſayes, *Bona eſt conſuetudo quæ continet bonum honorabile*, It is a good cuſtome that gives honour and regard to whom it is due. Thus it is a cuſtome that the Conſecration of Biſhops ſhould be in publick Churches; that the Degree of Doctor, becauſe it is an honour, be not conferred ſneakingly and in conventicles. And upon this account, when any cuſtome is honourable to religion or to a myſtery, it is not to be omitted, becauſe the cuſtome is good, and in ſome proportions miniſters to Religion and it's advantage.

C. ſi Judex laicus deſent. excommunicat. lib. 6.

9. Thus the Miniſters of religion when they officiate are by an immemorial cuſtome veſted in *albes* or *ſurplices*: it was intended as an honour to the religion, becauſe the white and the purple colours are the enſignes of Civil and Eccleſiaſtical dignity reſpectively, and are in honour to each other alternately indulg'd, and Kings weare albes, and Biſhops and Judges weare purple; and our Bleſſed Saviour was pleas'd to call it the glory of *Solomon*, when he was cloth'd in the pureſt linen of *Egypt*, whoſe whiteneſſe though very bright, yet it fell ſhort of the natural whiteneſſe of the lilly. Glory is nothing but the exceſſe and greatneſſe of honour, and therefore theſe garments which were glorious upon *Solomon*, at leaſt were given to the Religious as enſignes of honour: the ſame which the Epigram ſays of the purple Mantle which was ſtoln from *Criſpinus*,

Quisquis habes, humeris ſua munera redde precamur:
Non hoc Criſpinus te, ſed abolla rogat.
Non quicunque capit ſaturatas murice veſtes:
Nec niſi deliciis convenit iſte color.

lib. 8. Epigr. 48.

Such garments are not fit for every ſhoulder, they are marks of honor, and the delicacies of the greateſt and the worthieſt Men. But that the white garment was given to Religion, it had beſides the honour to the perſons, the ſignification and embleme of a precept: It ſignified purity and truth, which

* Vide Liliũ Giraldum Syntag. 1. Deorum, titulo de Diis ex humanis actionibus: & Charterium lib. de Deorum Imaginibus.

in *Philoſtratus* in the image of *Amphiaraus* is ſaid to be clothed with garments of ſnow, and cover'd with the pureſt whiteneſſe; and [a] *Clemens Alexandrinus* writes that *Cæus* the Sophiſter in the deſcription of vertue and vice, deſcrib'd vertue in a white robe; and ſo does [b] *Themiſtius* inveſt truth, ſitting upon an adamant, holding a bright ſplendor in her hand, and clothed with an albe. Concerning this S. *Clement* of *Alexandria* * ſpake much, even as much as the thing it ſelf will bear: for it being nothing but the colour of a garment, is not to be prov'd to be neceſſary, & therefore not to be valued in ſuch a quality: but yet neither is the cuſtome of that colour to be deſpis'd, becauſe that colour is a good embleme, and hath as much advantage as a colour can have; and therefore there can be no reaſon to deſpiſe the thing, or peeviſhly to goe againſt the cuſtome, where it is quitted from abuſe. But I ſhall adde this to it, which is warranty enough for the Churches choice, that the Primitive Chriſtians, who were free enough from any ſuperſtitious fancy concerning it, did nevertheleſſe particularly affect and chuſe this colour. They ſaw that the Saints in the Revelation had λευκὰ ἱμάτια *white garments*, and they were dipt in the bloud of the Lamb: and S. *Anthony* to repreſent himſelf a Chriſtian did goe in white, as S. *Athanaſius* tells of him. † *Eunapius* tells that the Monks in *Egypt* went in black; and that many Chriſtians that liv'd in other places did ſo too, for modeſty ſake and gravity, in humility and abjection, who pleaſe, may ſee demonſtrated by many inſtances in *Baronius*: & that is a good precedent to warrant the cuſtome of the ordinary Clergy habit. But yet it is evident that very many Chriſtians were pleas'd rather to uſe the ſimple and native colour of truth, the embleme of purity; and *Syneſius* writing to one *John* the Monk that choſe to goe in a black coat, writes that which is enough to be ſaid in this whole affaire, *Atqui nihilo deterius erat ſi candida foret: ſplendidiſſimæ quippe naturæ dicatum ac conſecratum id potius fuerit quod in his quæ ſenſu percipiuntur purius atque lucidius eſt. Sed ſi pullum ideo colorem probâſti, quod id aliorum qui ante te uſurpârunt imitatione feceris; laudo quicquid Dei cauſâ ſuſcipitur. But it had been no worſe if you had choſen the white, as that which is agreeable to the nature of ſplendor and purity, and brighter and purer to the eyes. But if you choſe the black garment becauſe it was the cuſtome of others that went before you, it is well; I commend any thing that is done for God, and for the cauſe of piety. Colorem album Deo maximè decorum*, ſaid *Cicero*, *quòd ſit index puritatis & nitelæ, omnemque fucum excludat veritate nativâ contentus. The white garment is moſt comely for religion, as being content with it's native ſimplicity, and an indication of brightneſſe and purity.* Upon this account it is a cuſtome of clothing the bodies of dead in white; *for they that are dead are juſtified from ſins*, and they are candidates of immortality. But it may be this was too much to be ſaid of ſo ſmall a thing: I inſtanc'd in this, to ſhew that this colour was intended for an exteriour honour to religion, and that is ſufficient (ſay the lawyers) to make a cuſtome reaſonable; and if it be reaſonable, it muſt be complied with.

[a] lib. 2. Pædag. cap. 10.
[b] Orat. 3. ſub finem.
* ubi ſuprà, & lib. 3. cap. 11.
† ſub finem vitæ Ædeſii.
An. Dom. 57. n. 77.
Epiſt. 146.
lib. 2. de Legib.
Videat lector, ſi placet, Plutarchum lib. de Iſide ſub initium, & 26. Rom. quæſt. & Theodor. orat. 1. de Provid. & Eliam Cretenſem in Nazian. orat. 4. in initio, Arrianum lib. 3. cap. 1. & Philon. Jud. lib. de plantat. Noe.

10. 7. A cuſtome whoſe reaſon is not known, yet if it be of an immemorial time, and does tranſmit a right to Eccleſiaſtical perſons, is not without great reaſon and evident neceſſity or publick utility to be refus'd. Thus it is a cuſtome in the Church of *England* that certain rights be paid to the Rector of the Church if the corps be interred in the Chancel: and though

in

in some places this did run into great abuse, which was excellently reprov'd by that learned and good man Sir *Henry Spelman* ὁ μακαρίτης, in his learned and pious Tract *de Sepultura*; yet the thing was not wholly to be blamed for the abuse sake, and the rights of any man are not easily to be snatched away because he cannot prove how he came by them, if he have had them long in possession. The thing was to have been reformed; but not after the new manner, that is, wholly taken away. *Consuetudo cujus initii memoria non sit in contrarium præsumitur rationabilis*, say *Geminianus*, Cardinal *Alexander* and *Panormitan*; and they instance in a Prelate receiving money beyond his procurations in his visitation. For though the reason of it be not now known, yet it is presum'd at first, there was a reason; & though we have lost the record, yet he must not loose his right; unless that right of his be manifestly other mens wrong. But this instance is to be understood so, that the Sepulture be first perform'd, and the charity and the ecclesiastical right be done to the dead; for these things cannot be contracted for: but when the piety is performed, the oblations of the faithful which at first were voluntary, and afterwards came into custome, and so transferred a right, may be receiv'd by the Rector, but must not be detained by the heire. Here in *Ireland* there is a custome of receiving oblations at the baptisme of infants; but if the Priest refuses to baptise the child till he be secur'd of the money, he is a direct Simoniac, for he contracts and takes a price for the Sacrament: but if he confer the Sacrament, to which he is tied by his charge and by the laws of God and Man, then afterwards he hath a right to the oblation which by law or custome was to be given. But the office is to be done without it: for the Infant hath a right to the Sacrament before the Priest hath a right to the offering; and that came in by the laws of God, this by the customes of Men.

11. 8. A Custome Ecclesiastical that is but of a legal and presum'd reasonableness does oblige us to a conformity. I call that a legal or presum'd reasonableness, when the law in certain cases does suppose it reasonable; and though it be not known to be naturally or precisely so, yet because it is not known to be unreasonable, but there is a probability to conjecture that it entred upon a right cause, it is permitted and allowed. This happens in two cases. The first is when a Custome is besides the law, and not against it. For if it be against a law, it ought not to prevaile at all, unless it be precisely reasonable, that is, unless the law in the changing of affairs or in it self at first be unreasonable; for in that case a custome that is naturally reasonable may be admitted, and if it be, must be observed. But if it be only besides the law, and not against it, then it is presum'd to be reasonable, *hoc ipso quod introducta est*, say the Doctors, therefore because it is introduc'd: and the reason is, because every thing is presumed to be reasonable that is done generally, unless it be known to be unreasonable; and the very interests of peace and the reputation and honour of mankind require this, without any more inquiry; save onely that this be added, that if the custome introduc'd besides law be either universal, or of an immemorial beginning, the law presumes the more strongly of the reasonableness of it, and therefore in these cases it ought to prevail the rather. For to this sense is that rule of S. *Austin*, *Illa quæ non scripta sed tradita custodimus, quæ quidem toto terrarum orbe observantur, dantur intelligi vel ab ipsis Apostolis, vel plenariis Conciliis, quorum est in Ecclesia saluberrima authoritas, commendata atque statuta retineri*, *Those things which are delivered to us not by writing,* Epist. 118. cap. 1.

but by tradition [or *cuſtome*] *which are obſerved in all the world, we underſtand them to be either retain'd by the appointment or commendation of the Apoſtles, or ſome General Councils, whoſe authority in the Church is of great uſe.*] That is, when the cuſtome is *univerſal* and *immemorial*. For the firſt we preſume it to be very reaſonable, it could not elſe have eaſily prevail'd upon the whole Church: and for the ſecond we ſuppoſe it to have had a very good beginning; for it addes moments to the cuſtome, that when we know nothing to the contrary, we preſume the beſt of its original. Not that we ought to conclude or to believe a Cuſtome to have come from the Apoſtles, if it be univerſal or immemorial; but that we ought to regard and reverence it as if it did, becauſe we know not in ſome caſes whether it did or no. * But if it be either one or other, it is ſufficient to oblige us to retain it, or to comply with it ſo long as it is retained. Thus the ſolemn daies of Rogation which we obſerve in the Church of *England* were not of an immemorial beginning; for they were firſt us'd by the Biſhops of *Vienna*, *Mamertus*, *Iſicius* and *Avitus*; but yet they were quickly univerſal, *non per Gallias tantummodo, ſed penè per totum orbem*, not onely in *France*, but in almoſt all the world, ſaid *Alcimus Avitus* in his time: and therefore this cuſtome is not to be neglected by any ſingle perſon, where the Church ſtill retains it; for this is ſufficient to make a legal preſumption of its reaſonableneſs.

Homil. de Rogat.

* The other caſe is, that a Cuſtome is preſum'd reaſonable when the nature of it is ſuch that it can have no poſitive and natural unreaſonableneſs, but is capable of ſome extrinſic and accidental decency and fittingneſs. The cuſtome that is actually in the practice and manners of a Church is preſum'd reaſonable: and this is of uſe but in ſmall matters, but yet ſuch which little and great men ſometimes make great matters of; I mean preſidencies and priorities of place, ſittings in the quire, precedencies in Councils. Now in theſe caſes Cuſtome ought to prevail, for where there is no reaſon in the thing, there Cuſtome is a reaſon ſufficient; and if a law ought to prevail though there be no reaſon known for it, then ſo muſt Cuſtome, becauſe this is eſteemed as a law. *Capit. Conſuetudo* 1. *diſt. & l. de quibus, ff. de legibus.* And it is remarkable, that although in the introducing of a Cuſtome, it concerns the Governours of Churches to take care that it be reaſonable; yet when it is introduc'd that care is over, and then they are to take care to keep unity and to avoid ſcandal. *Præſtat illic eſſe ubi nihil licet quam ubi omnia*, ſaid one, It is better to be under a Tyranny then under an Anarchy; it is better to be too much reſtrain'd then to be too looſe: and if a Cuſtome hath ſeiz'd upon us, it is better to ſtand ſtill under that arreſt, then to break the gentleſt cords of a man, and inter into licentiouſneſs. *Pernicioſior temeritas quam quies.* It is not good to move any ſtirs in a quiet Church, for certainly peace is better then that which is onely a little better then a cuſtome. And we ſee it by a ſad experience, that thoſe who are enemies and ſtubborn to the innocent Cuſtomes of a Church, intend nothing but to get the government into their own hands. *Genus hominum potentibus infidum, ſperantibus fallax*; as *Tacitus* ſaid of the *Aſtrologers*, we have too much reaſon to ſay of them, They are a ſort of men that deceive their own confidents, and are no ſure friends to their Superiors: for to diſavow Cuſtomes is a great diſhonour to the Government, and a reproach to the miniſtery of laws; and to their diſciples they preach liberty, that themſelves onely may rule them abſolutely. *Quanto majore libertatis imagine teguntur, tanto eruptura ad infenſius ſervitium*;

Tacitus

Tacitus ſaid it of ſuch perſons: by the exempting fools from the juſt rule of their ſuperiors, they make them their own ſlaves. But to rebel againſt the Cuſtomes of a Church is an accuſation not onely of the Rulers, but a condemnation of the whole ſociety of the faithful.

12. 9. A Cuſtome in the adminiſtration of a Sacrament introduc'd againſt the analogy and myſtery, the purpoſe and ſignification of it, ought not to be complied with. I inſtanc'd before in a Cuſtome of the Church of *England* of ſprinkling water upon infants in their baptiſme; and I promiſed to conſider it again. *Baptizabant enim veteres, non manibus ſuis aquam baptizando aſpergentes, ſed trinâ immerſione hoc Evangelii ſequentes, Aſcendit ex aqua, ergo deſcenderat. Ecce immerſio, non aſperſio*; ſaid *Jeremy* the Patriarch of *CP. Straightway Jeſus went up out of the water*, ſaith the Goſpel: *He came up, therefore he went down. Behold an immerſion, not an aſperſion.* And the Ancient Churches following this of the Goſpel, did not in their baptiſmes ſprinkle water with their hands, but immerg'd the Catechumen, or the infant. And therefore we find in the records of the Church, that the perſons to be baptized were quite naked; as is to be ſeen in many places, particularly in the 11th Myſtagogic Catechiſme of S. *Cyril* of *Jeruſalem*: and S. *Dyonis* * deſcribes the ritual in the ſame manner. *The Biſhop puts his hand upon the Catechumen's head, and giving a ſign to the Prieſts, commands that they write the name of the Catechumen and of his God-father; which being written he ſaies the office or prayers, which when the whole Church hath perform'd together with him, he deveſts him of his garments by the Miniſters.* And the ſame thing out of the ſame Author is obſerved by *Elias Cretenſis* in his notes upon the fourth Oration of S. *Gregory Nazianzen*, and is reported alſo by S. *Ambroſe* in his tenth Sermon. *Nudi in ſeculo naſcimur, nudi etiam accedimus ad lavacrum, We are born naked, and naked we enter into the waters of baptiſme.* All which are a perfect conviction that the Cuſtome of the Ancient Churches was not ſprinkling, but immerſion, in purſuance of the ſenſe of the word in the Commandement, and the example of our Bleſſed Saviour. * Now this was of ſo ſacred account in their eſteem, that they did not account it lawful to receive him into the Clergy who had been onely ſprinkled in his baptiſme; as we learn from the Epiſtle of *Cornelius* to *Fabius* of *Antioch*, μὴ ἐξὸν εἶναι τὸν ἐν κλίνῃ διὰ νόσον περιχυθέντα ὥσπερ καὶ ἐκεῖνος εἰς κλῆρόν τινα γενέσθαι, *It is not lawful that he who was ſprinkled in his bed by reaſon of ſickneſs ſhould be admitted into holy orders.* Nay it went further then this, they were not ſure that they were rightly Chriſtned yea or no who were onely ſprinkled; as appears in the ſame Epiſtle of *Cornelius* in *Euſebius*, εἰγε χρὴ λέγειν τὸν τοιοῦτον εἰλῆφθαι, which *Nicephorus* thus renders [*if at leaſt ſuch a ſprinkling may be called baptiſme*:] and this was not onely ſpoken in diminution of *Novatus* and indignation againſt his perſon, for it was a formal and a ſolemn queſtion made by *Magnus* to S. *Cyprian*, *an habendi ſint Chriſtiani legitimi, eo quod aquâ ſalutari non loti ſunt, ſed perfuſi, Whether they are to be eſteemed right Chriſtians who were onely ſprinkled with water, and not waſhed or dipped.* He anſwers, that the Baptiſme was good when it is done *neceſſitate cogente, & Deo indulgentiam ſuam largiente*, in the caſe of neceſſity, God pardoning and neceſſity compelling. And this is the ſenſe and law of the Church of *England*, not that it be indifferent, but that all infants be dipped, except in the caſe of ſickneſs, and then ſprinkling is permitted. And of this ſprinkling, beſides what is implyed in the former teſtimonies, there was

Reſp. 2. cap. 4.

* Lib. de Eccl. Hierarch. cap. de Baptiſmo.

Apud Euſeb. lib. 6. c. 43.

Epiſt. 76.

ſome little uſe in the Primitive Church. *Quis enim tibi tam infidæ pœnitentiæ viro aſperginem unam cujuſlibet aquæ commodabit?* ſaies *Tertullian* ſpeaking to an impenitent perſon: *Who will afford thee ſo much as one ſingle ſprinkling of water?* (meaning) for his baptiſm. And *Surius* in the life of S. *Laurence* tells that as he was going to his Martyrdome, one *Romanus* a ſouldier brought to him a pitcher of water that he might be baptized of him as he went; which in that caſe muſt needs have been done by powring water upon him. *Fudit aquam ſuper caput ejus:* ſo did S. *Laurence* alſo to *Lucillus*, he powred water upon his head. And *Walafridus Strabo* from theſe very examples concludes that in caſes of neceſſity it is lawful to uſe ſprinkling. He addes alſo, that it is lawful to doe it when there is a great multitude of perſons at once to be baptized: and *Aquinas* ſuppoſes the Apoſtles did ſo when the 3000 and when the 5000 were at once converted and baptized. But this is but a conjecture, and hath no tradition and no record to warrant it: and therefore although in caſes of need and charity the Church of *England* does not want ſome good examples in the beſt times to countenance that permiſſion, yet we are to follow her command, becauſe that command is not onely according to the meaning and intent of the word βαπτίζειν in the Commandement, but agrees with the myſtery of the Sacrament it ſelf; *For we are buried with him in baptiſme*, ſaith the Apoſtle. *In aqua tanquam in ſepulchro caput immergentibus vetus homo ſepelitur & ſubmergitur, deinde nobis emergẽtibus novus reſurgit inde*: ſo S. *Chryſoſtom*, The old man is buried and drowned in the immerſion under water, and when the baptized perſon is lifted up from the water, it repreſents the reſurrection of the new man to newneſs of life. In this caſe therefore the contrary Cuſtome not onely being againſt an Eccleſiaſtical law, but againſt the analogy and myſterious ſignification of the Sacrament, is not to be complied with, unleſs in ſuch caſes that can be of themſelves ſufficient to juſtify a liberty in a ritual and ceremony; that is, a caſe of neceſſity.

De Pœnit. c. 6.

De rebus Eccle. cap. 26.

In illud 3. Johan. Niſi quis renatus &c.

13. And of the ſame conſideration is it, that the baptiſme be performed with a *trine immerſion*, and not with one onely. In *England* we have a cuſtome of ſprinkling, and that but once. To the ſprinkling I have already ſpoke; but as to the number, though the Church of *England* hath made no law, and therefore the cuſtome of doing it once is the more indifferent and at liberty, yet if the trine immerſion be agreeable to the analogy of the myſtery, and the other be not, the Cuſtome ought not to prevail, and is not to be complied with, if the caſe be evident or declar'd. Now in this particular the ſenſe of Antiquity is clear. *Nam nec ſemel, ſed ter ad ſingula nomina in perſonas ſingulas tingimur*, ſaith *Tertullian*: *Dehinc ter mergitamur*, We are thrice put under water, not once; at the mention of every perſon we are dipped. The very ſame words we read in S. *Hierom* againſt the *Luciferians*. But more largely it is explicated by S. *Ambroſe*. *Thou wert asked, Doeſt thou believe in God the Father Almighty? and thou didſt ſay, I doe believe: and thou wert plunged, that is, buried. Thou wert asked again, Doeſt thou believe in our Lord Jeſus Chriſt? and thou ſaideſt, I doe believe: and thou wert dipped* or *plunged*; *and therefore thou art buried together with Chriſt. The third time thou wert asked, Doeſt thou believe in the Holy Spirit? and thou ſaideſt, I doe believe: and the third time thou wert plunged; that thy three-fold confeßion might waſh away the many lapſes of thy former life.* S. *Denis* ſays that the trine immerſion ſignifies the Divine eſſence

Adv. Praxeam c. 28.

De corona milit. c. 15.

Lib. 2. de Sacram. cap. 7.

eſſence and beatitude of God in a Trinity of Perſons. S. *Athanaſius* ſays it ſignifies *the death, burial, and reſurrection of our Bleſſed Saviour, together with his being three dayes in the grave.* And this thing was ſo the practice and cuſtome of the Church, that in the Canons of the Apoſtles * (as they are called) he that does not uſe trine immerſion is to be depoſed from his dignity. Τὼ μίαν βαπτισιν καταδυσιν ἀσεβεῖ ἐστι, *It is impious and ungodly to immerge but once in baptiſme*; ſo *Zonaras* upon that Canon: and S. *Chryſoſtome* derives it from Chriſts inſtitution, *Omnibus myſteriis velut ſignum imponens Dominus, in tribus merſionibus aquæ unum baptiſma diſcipulis ſuis tradidit, Our Lord did as it were impoſe a ſigne upon every myſtery, and delivered one baptiſme to his Diſciples in three immerſions or dippings:* and therefore ſays, that though this deſcended by tradition, yet it hath the authority of a law. And the ſame thing we find affirmed by Pope *Pelagius*, as he is cited by *Gratian de conſecrat. diſt.* 4. And *Theodoret* ſpeaking of the heretic *Eunomius*, who firſt of all without authority and againſt reaſon did uſe but ſingle immerſion, he ſays that he ſubverted the rite of holy baptiſme which at firſt was delivered by our Lord and his Apoſtles.

in Dictis & interpret. Script. qu. 91. Vide Auguſt. Homil. 4. & apud Gratian. de Conſecr. diſt. 4. cap. 76.
* Can. 49.
Lib. 4. Hæret. fabul.

14. Now in theſe particulars it is evident that the Ancient Churches did otherwiſe then we doe: but that is not ſufficient to force us to break the Eccleſiaſtical cuſtome which is of long abode with us. But when they ſay, theſe things are to be done by Divine precept, we are to conſider that upon it's own account: and though ſome of the Fathers did ſay ſo, yet it can never be proved to be ſo; and it were ſtrange that there ſhould be a Divine Commandement of which there is no mention made in the four Goſpels, nor in the Acts or Epiſtles of the Apoſtles. But then that there is in dipping, and in the repetition of it more correſpondencie to the analogy and myſtery of the Sacrament, is evident; the one being a Sacrament of the death and burial of Chriſt, the other a confeſſion of, and an admiſſion to the faith and profeſſion of God in the moſt Holy Trinity: and therefore I ſay, it is ſufficient warrant that every ſingle perſon break that cuſtome of ſprinkling which is againſt the Eccleſiaſtical Law; and it is alſo a ſufficient reaſon to move the Church to introduce a contrary cuſtome to the other of ſingle immerſion, concerning which as yet there is no law. But becauſe there is even in ſprinkling ſomething of the analogy of the myſtery, as is rightly obſerved by *Aquinas* and *Dominicus à Soto*; and becauſe it is not certain that the beſt repreſentation and the moſt expreſſive ceremony is requir'd; therefore the Church upon great cauſe may lawfully doe either: but becauſe it is better to uſe dipping, and it is more agreeable to the myſtery to uſe it three times, and that ſo the Ancient Church underſtood it, therefore theſe things are a ſufficient warrant to acquit us from the obligation of the contrary cuſtome; becauſe a cuſtome againſt which there is ſo much probability, and in which there is no neceſſity and no advantage, is to be preſumed unreaſonable.

15. But if the cuſtome of ſingle immerſion ſhould by ſome new-ariſing neceſſity become reaſonable, then it not onely might be retained, but ought to be complied with. Thus it hapned in *Spain* in the year DC. the *Arrian* Biſhops finding their advantage in the readily-prepared cuſtome of trine immerſion, uſed it and expounded it to ſignify the ſubſtantial difference of the Son and the Holy Ghoſt from the Father. Upon this *Leander* the Biſhop of *Sevil* gives advice and notice to S. *Gregory* Biſhop of *Rome*; who commends

mends *Leander* for using a single immersion, which he did to signify the Unity of nature in the Divinity, & that he might not comply with the *Arrians*: and this was afterwards brought into custome, and then into a law by the Can. 5. alias 6. fourth Council of *Toledo*. But unless such an accident happen, and that the reason be changed, every Church is to use her first customes, those which be right, and agreeable to the sense and purpose of the Sacrament. But otherwise an evil custome is better broken then kept.

Rule XVI.

The Decrees and Canons of the Bishops of *Rome* oblige the conscience of none but his own subjects.

1. THis must needs follow from divers of the former discourses: for if Bishops in their spiritual capacity have no power of making laws of external regiment without the leave of their Princes, or the consent of their people, then supposing the Popes great pretence were true, that he is the head or chief of the Ecclesiastical order, that from him they receive immediately all the spiritual power they have, yet this will afford him no more then what Christ left to the whole order; of which I have already given accounts.

2. But in this there will be the lesse need of inquiry, for since the Bishop of *Rome* by arts which all the world knows had raised an intolerable Empire, he us'd it as violently as he got it, and made his little finger heavier then all the loyns of Princes: and in the Council of *Trent*, when in the Cap. 20. 25th Session the Fathers confirmed and commanded the observation of all Canons, General Councils, Apostolical ordinances made in favour of Ecclesiastical persons and Ecclesiastical liberty, they at once by establishing the Popes Empire, destroyed it quite, for they made it impossible to obey, and the Consciences of people were set at liberty, because they were commanded every man to beare a steeple upon his back. For first there were Lib. 2. c. 11. an infinite number of Apostolical ordinances, saith Cardinal *Cusanus*, which were never received even when they were made. Then let it be considered what there is to be done to *Gratian*'s *decretum*, which is made part of the Popes law: and who knows in that *Concordantia discordantiarum*, that contradictory heap of sayings, which shall, and which shall not oblige the Conscience? But then the *Decretals* of *Gregory* the 9th and of *Boniface* the 8th, the *Clementines* and *Extravagants*, all those laws in that book which is called *Collectio diversarum constitutionum & literarum Romanorum Pontificum*, and in another called *Epistolæ decretales Summorum Pontificum* in three volumes, and in another called *Eclogæ Bullarum & motuum propriorum*, and in another called *Summa Pontificum*, and in the seventh book of the *Decretals* not long since composed, and in their Rules of Chancery, their Penitentiary taxes, and some other books of such loads as these that I need not adde to this intolerable heap: but that a Christian Bishop should impose, and a Council of Christian Bishops and Priests should tie upon the Consciences of men such burdens which they can never reckon,

never

never tell over, never know, never understand; and that they should doe it then when a Christian Emperour had given advice that the Decrees and Canons should be reduc'd to a less number, and made to conform to the laws of God, is so sad a story, so unlike the spirit of Christ and to government Apostolical, that it represents the happiness of Christendome that they are not oblig'd to such laws, and the unhappiness that would be upon them if the Pope had the rule and real obligations of the Consciences of Christendome.

3. But of these things the world hath been long full of complaint; as appears in the writings of the [a] *Cardinal* of *Cusa*, in [b] *Marsilius* of *Padua*, in *Aventinus*, in [d] *Albericus Rosate*, in [e] *Gregory Hambourg*, in [f] *Matthew* of *Paris*, [g] *Matthew* of *Westminster*, [h] *Nicolaus de Clemangiis*, [i] *Franciscus Duarenus*, [k] the *Cardinal* of *Cambray*, and many others both collected by *Goldastus*, and the *Catalogus testium veritatis* by *Illyricus*. Insomuch that if the people had not been ignorant and superstitious, *qui facilius vatibus quam Ducibus parent suis*, and more willing to obey their Priests then their Princes, and if the Princes had not been by such means over-powered, these Decrees and Canons would have been as easily rejected as many others have been. For if by the Papal sanction they doe oblige the Conscience, then they all oblige. If they all oblige, how comes it to pass that, as *Cusanus* saies, infinite numbers of them are rejected when they are newly made? And if so many of them may be rejected, then which of them shall oblige? If they oblige by the authority of the Pope, that is alike in them all: If by the condition of the matter, then they bind as they agree with our duty to God and to Princes, with the publick good, and the edification of the Church; and then the authority it self is nothing.

[a] Ubi supra.
[b] In Defens. pacis part. 2. c. 23.
[c] L. 7. Annal. Boiorum.
[d] In l. Bene à Zenone, C. de quadrien. præscript.
[e] In Consut. Primat. Papæ 2. consider. princip.
[f] In Henrico 3.
[g] In parte 2. A. D. 1247.
[h] Lib. de ruina & reparat. Eccl.
[i] In Præfat. libri de sacris Ecclesiæ Ministeriis, impres. 1551.

[k] Alliacens. de Reformat. Eccles. consid. 2. See also the *Vergers Dream* made in Latine in the time of *Charls* the fifth, and translated into French.

4. And it is no trifling consideration, that the body of the Canon law was made by the worst and the most ambitious Popes. *Alexander* the third, who made *Gratian*'s decree to become law, was a schismatical Pope, an Antipope, and unduly elected: The rest were *Gregory* the ninth, *Boniface* the eighth, *Clement* the fifth, *John* the 22, persons bloudy and ambitious, traitors to their princes, and butchers of Christendome by the sad warres they rais'd, and therefore their laws were likely to be the productions of violence and warre, not of a just and peaceable authority.

5. But to come nearer to the point of Conscience; who made the Bishop of *Rome* to be the Ecclesiastical law-giver to Christendome? For every Bishop hath from Christ equal power, and there is no difference but what is introduc'd by men, that is, by laws positive, by consent, or by violence. *Ad Trinitatis instar, cujus una est atque individua potestas, unum est per diversos Antistites sacerdotium*, said Pope *Symmachus*. As is the power of the holy Trinity, one and undivided; so is the Episcopacy, divided amongst all the Bishops, but the power is the same. So S. *Cyprian*, *Una est Ecclesia per totum mundum in multa membra divisa: item Episcopatus unus, Episcoporum multorum concordi numerositate diffusus; As there is but one Church in the whole world divided into many members, so there is but one Bishoprick parted into an agreeing number of Bishops.* And again, *Let no man deceive the Brotherhood with a lie, let no man corrupt the truth of faith with a perfidious*

Baron. A. D. 499. n. 36.

Lib. 4. Epist. 2.

Lib. 4. Epiſt. 3. Lib. 1. Ep. 3. *perfidious prævarication: Epiſcopatus unus eſt, cujus à ſingulis in ſolidum pars tenetur, There is but one Biſhoprick, and every one of us hath his ſhare: a part of the flock is given to every Paſtor.* Now if one were the univerſal Biſhop over all, then theſe zealous words of S. *Cyprian* had not been reconcilable to truth and ſenſe: for then the unity of the Church had been by a unity of ſubordination, not by an identity of office and a partition of charge. To

Epiſt. 5. the ſame purpoſe is that of Pope *Damaſus*, writing to the *African* Biſhops to require their aide in a matter of diſcipline, *Nos excuſare non poſſumus, ſi ejus Eccleſiam quæ nobis generaliter commiſſa eſt in quantũ prævalemus puram à tam illicitis ſuperſtitionibus non cuſtodiamus, quia non aliter unus grex & unus Paſtor ſumus, niſi quemadmodum Apoſtolus docet, id ipſum dicamus omnes, &c. The Church is committed to us in common, and we have no other way of being one flock and one ſhepherd, but by ſpeaking the ſame things*] that is, conſenting and joyning in the common government. This is the ſame which S. *Hierom* affirm'd, *Omnis Epiſcopus, ſive Romæ fuerit, ſive Eugubii, ſive Conſtantinopoli, ſive Rhegii, ſive Alexandriæ, ſive Tanais, ejuſdem eſt meriti, ejuſdem ſacerdotii:* It is all one, there is no difference in worthineſs and power, whether he be Biſhop of *Rome* or *Eugubium*, *Conſtantinople* or *Rhegium*, *Tanais* or *Alexandria*. For as it was with the Apo-

Cyprian de unit. Eccleſ. ſtles, ſo with their ſucceſſors; *Hoc utique erant cæteri Apoſtoli quod erat Petrus, pari conſortio præditi & honoris & poteſtatis*, What *Peter* was that the reſt of the Apoſtles were; He was the Vicar of Chriſt on earth, and ſo were they, and ſo are their ſucceſſors. *Caput enim Eccleſiæ Chriſtus eſt, Chriſti autem Vicarii Sacerdotes ſunt, qui vice Chriſti legatione funguntur in Eccleſia*, ſaid Pope *Hormiſda:* and S. *Cyprian* calls the Biſhop, *unum ad tempus vice Chriſti Judicem*, the Deputy and vicegerent of Chriſt. S. *Peter* had

Vide S. Cypr. l. 1. ep. 3. & lib. 5. ep. 6. S. Ambroſe in 1 Cor. 11. the Keyes given him, ſo had the Apoſtles, and ſo have their Succeſſors; S. *Peter* was the pillar of the Church, and ſo were the other Apoſtles; He was a foundation, and ſo were they; for *Chriſt hath built his Church upon the foundation of the Apoſtles and Prophets.* He was Πέτρος, and every one of them was πέτρα, *a rock*, and Chriſt was the Corner-ſtone. And what they were in their perpetual office, that the Biſhops are. *Antiſtitem puriorem cæteris eſſe oportet, ipſius enim* [*Chriſti*] *perſonam habere videtur, eſt enim*

In Quæſt. Vet. & N. Teſt. q. ult. & ad fratres in Eremo, cap. 37. *vicarius ejus, ut quod cæteris licet, illi non liceat, quia neceſſe habet quotidie Chriſti vicem agere*, ſaid S. *Auſtin. A Biſhop ought to be more holy then others, becauſe he hath the perſon of Chriſt, he is his Vicar, what is lawful to others is not lawful for him, for he every day is in his place or ſtead.* Adde to this, that the power which the Biſhops have, they have it immediately from Chriſt, they are ſucceſſors of the Apoſtles, of all, not of *Peter* onely, many Apoſtolical Churches which were eſtabliſhed by others being ſucceeded in as well as *Rome*; that theſe things are evident in matter of fact, and univerſally affirmed in antiquity clearly and without diſpute.

6. From hence it muſt needs follow that by the law of Chriſt one Biſhop is not ſuperior to another. Concerning which I need no other teſtimony then that excellent ſaying of S. *Cyprian* in the Council of *Carthage*, *It remains* (ſaith he) *that we all ſpeak what every one of us does think, judging no man, and refuſing to communicate with no man that ſhall happen to be of a differing judgment. Neque enim quiſquam noſtrum ſe Epiſcopum Epiſcoporum conſtituit, aut tyrannico terrore ad obſequendi neceſſitatem collegas ſuos adegit; quando habeat omnis Epiſcopus pro licentia libertatis & poteſtatis ſuæ arbitrium proprium, tanquam judicari ab alio non poſſit, cum nec ipſe poſſit alterum*

alterum judicare: ſed expectemus univerſi judicium Domini noſtri Jeſu Chriſti, qui unus & ſolus habet poteſtatem & præponendi nos in Eccleſiæ ſuæ gubernatione, & de actu noſtro judicandi, For none of us makes himſelf a Biſhop of Biſhops, or by tyrannical terror compels his collegues to a neceſsity of complying: for every Biſhop hath a liberty and power of his own arbitrement, neither can he be judged by any one, nor himſelf judge any other; but we all muſt expect the judgment of our Lord Jeſus Chriſt, who by himſelf and alone hath power of ſetting us over the government of his Church, and of judging us for what we doe. Now if all Biſhops be equal in their power, then the Pope can by the laws of Chriſt make laws no more then any Biſhop can; and what the legiſlative of the Biſhop is, I have already declar'd and prov'd: and therefore for theſe and infinite *other reaſons* the Conſciences of Chriſtians may be at peace as to the Canons of the Popes, out of his temporal juriſdiction. Concerning which *other reaſons* who pleaſe to require them may find enough in * *Spalatenſis*, in the replies of our Engliſh Prelates in the queſtions of ſupremacy and allegeance, in *Chamier*, *Moulin*, *Gerard*, and divers others. I have the leſs need to inſiſt upon any more particulars, becauſe I write in a Church where this queſtion is well underſtood, and ſufficiently determin'd to all effects of Conſcience. I onely adde the ſaying of *Æneas Sylvius* who was himſelf a Pope, *Ante Concilium Nicenum quiſque ſibi vivebat, & parvus reſpectus habebatur ad Eccleſiam Romanam, Before the Nicene Council every man lived to himſelf* (that is, by his proper meaſures, the limits of his own Church) *and little regard was had to the Church of Rome.*

* Lib. 2. Cap. 1, 5, 6.

Epiſt. 288.

§. IV.

Of the matter and conditions of ECCLESIASTICAL Laws requir'd to the obligation of Conſcience.

RULE XVII.

Eccleſiaſtical laws that are meerly ſuch cannot be Univerſal and perpetual.

1. I Doe not mean onely that Eccleſiaſtical laws can be abrogated by an Authority as great as that which made them; for all poſitive laws both of God and man can be ſo, and yet there are ſome of both which have been obligatory to all men under ſuch a government, and during ſuch a period, that have been called perpetual & for ever. But that which is here intended is of greater conſequence and concern to the Conſcience, and it is this, That Eccleſiaſtical laws meerly ſuch, that is, thoſe which doe not involve a divine law within their matter, muſt be ſo made as that they doe not infringe *Chriſtian liberty*; and ſecondly, that they be ſo enjoyn'd, that *the Commandements of men be not taught for doctrines.* Theſe are very material conſiderations, but of great difficulty; and therefore it is fit they be moſt ſeriouſly conſidered.

2. They muſt be impoſed ſo as to leave our liberty unharm'd; that is, that the law be *not univerſal*, not with an intent to oblige all Chriſtendome, except they will be obliged, that is, doe conſent. For laws are in publick as actions in particular; actions are done by ſingle men, and laws

are made by limited communities. A Society cannot be ſaid to doe an action, and the whole world cannot be ſaid to make a law; but as the action is done by a determin'd perſon, ſo the law is made by a determin'd Government, as by the Church of *England*, of *Rome*, of *Millain*; and the Catholick Church never yet did meet ſince the Apoſtles daies in any aſſembly to make a law that ſhall bind all Chriſtians whether they conſent or no. And becauſe one Church hath not by any word of Chriſt authority over another Church, and one King is not ſuperior to another King, but all are ſupreme in their own dominions, of which the Church is at leaſt a part, and if they be all Chriſtian, it is that Church, that Chriſtian dominion; it muſt neceſſarily follow that no Eccleſiaſtical law can be made with a power of paſſing neceſſary obligation upon all Chriſtians. And therefore the Code of the Catholick Church was nothing but a collection of ſome private conſtitutions which were conſented to by many Churches, and to which they bound themſelves, but did not long ſtand ſo, but changed them more or leſs according as they pleas'd. And when the Roman Emperors made any Canon Eccleſiaſtical into a law, it was a part of the Civil law, and by that authority did oblige as other civil laws did, not all the world, but onely the Roman world, the ſubjects of that dominion.

3. But when any law or Canon Eccleſiaſtical is made, it is made by a certain number of Eccleſiaſtics, or by all. If by all, then all conſent firſt or laſt, and then every Biſhop may govern his charge by that meaſure; but that was never yet reduc'd to practice, and prevails onely by conſent: But if by a certain number onely, then they can but by that meaſure rule their own ſubjects; but if they obtrude it upon others, then comes in the precept of the Apoſtle, *Stand faſt in the liberty with which Chriſt hath made you free, and be not again intangled in the yoke of bondage.*

Galat. 5. 1.

4. For when Chriſt had made us free from the law of Ceremonies which God appointed to that nation, and to which all other nations were bound if they came into that Communion; it would be intolerable that the Churches, who rejoyced in their freedome from that yoke which God had impoſed, ſhould ſubmit themſelves to a yoke of ordinances which men ſhould make: for though before they could not, yet now they may exerciſe communion and uſe the ſame religion without communicating in rites and ordinances.

5. This does no way concern the ſubjects of any government (what liberty they are to retain and uſe, I ſhall diſcourſe in the following numbers) but it concerns diſtinct Churches under diſtinct Governments, and it means, as appears plainly by the context and the whole analogy of the thing, that the Chriſtian Churches muſt ſuffer no man to put a law upon them who is not their Governour. If he have undertaken a pious diſcipline, let him propound it, and for God's glory and the zeale of ſouls endeavour to perſwade it; for all that is not againſt Chriſtian liberty, untill any man or any Church ſhall impoſe it, and command it, whether the Churches pleaſe or no, whether they judge it expedient or no, whether it be for their edification or not for their edification: that's not to be ſuffered; it is againſt our Evangelical liberty, and the Apoſtolical injunction.

And

6. And this was ſo well underſtood by the Primitive Churches, that though the Biſhops did appoint temporary and occaſional faſts in their Churches upon emergent and great accidents, as *Tertullian* affirms, yet they would ſuffer no Biſhop to impoſe any law of faſting upon others, but all Churches would keep their own liberty, as I have already proved in this Chapter*: & when *Montanus* did νηστείας νομοθετῆν make a law of faſting, not for his own Church, but intended that all Chriſtians ſhould keep the faſts appointed, they made an outcry againſt him & would not endure it; & yet he did it onely for diſcipline, not for doctrine, for piety, not as of neceſſity, as appears in *Tertullian*'s book of faſting, in the firſt & ſecond Chapters: and they alſo did keep faſting-days ſet and ſolemn, every Biſhop in his own Church, at what times they would, but almoſt all upon Good-Friday; but this was by conſent and with liberty, and that they ought to defend, and ſo they did. * Rule 13. n. 9. Vide etiam c. 13. & 15.

But Eccleſiaſtical laws muſt not be perpetual.

7. That is, when they are made, they are relative to time and place, to perſons and occaſions, ſubject to all changes, fitted for uſe and the advantage of Churches, miniſtring to edification, and complying with charity. Now whatſoever is made with theſe conditions, cannot be perpetual: and whatſoever Eccleſiaſtical Law hath not theſe conditions, the Churches ought not to receive, becauſe they are impediments, not advantages to the ſervice of God. If they be thus qualified, no good man will refuſe them; if they be not, they are the laws of Tyrants, not of Spiritual Fathers: For this whole affaire is fully ſtated in thoſe words of our Bleſſed Saviour; reproving of the *Phariſees* and their Eccleſiaſtical laws, he ſays, they *by their traditions did evacuate the Commandement of God*, and they *taught for doctrines the commandements of men*. The full ſenſe of which when we underſtand, we have the full meaſure of Eccleſiaſtical laws, not onely as they relate to the Churches and communities of Chriſtians under diſtinct governments, but to every ſingle Chriſtian under his own governour and ſuperior. Theſe I ſay are the Negative meaſures: that is, Eccleſiaſtical laws are not good and are not binding if they be impos'd againſt the intereſt of a Divine Commandement, or if they be taught as doctrines. Of the firſt there is no doubt, and in it there is no difficulty: But in the latter there is a very great one.

8. For when our ſuperiors impoſe a law of diſcipline, they ſay it is good, it is pleaſing to God, it is a good inſtrument and miniſtery to ſome vertue, or at leaſt it is an act of obedience, and that it is ſo, is true doctrine: what hurt can there be in all this? The commandements of men are bound upon us by the Commandement of God, and therefore when they are once impoſed, they ceaſe to be indifferent, and therefore may then become διδαχαὶ *doctrines* and points of religion; what then is that which our Bleſſed Saviour reproves? and what is our Negative meaſure of Eccleſiaſtical laws?

9. To this the anſwer is beſt given by a narrative of what the *Phariſees* did, and was reproved: for all was not repugnant to the law of God, neither is all that amiſſe which *men teach to be done*. For our Bleſſed Saviour commanded us to hear them that ſate in *Moſes* chaire, and to doe whatſo-

ever they commanded: not abſolutely whatſoever, but whatſoever of a certain ſort; that is, 1. whatſoever they taught by a probable interpretation of what was doubtfull, 2. or by faithfull counſel concerning things belonging to piety and charity, 3. or by a determining to circumſtances of time and place thoſe things which were left to their choice and conduct.

10. Whatſoever was beſides theſe, that is, 1. whatſoever had it's foundation in the opinions of men, and not in ſomething certainly derived from God, if brought into religion, and impos'd on mens conſciences as a part of the ſervice of God, this is the teaching for doctrines the commandements of men. But beſides this 2. if what is deduc'd onely by probable interpretation be obtruded as a matter of faith; or 3. if what is piouſly counſel'd, be turned into a perpetual and abſolute law; or 4. if that which was left to the choice and conduct of the governours, be handled not as matter of liberty, but of neceſſity; in all theſe caſes the commandements of men are taught for doctrines.

11. The reaſon of theſe things is plain. For the firſt; If it have no foundation in the law of God, but in humane opinions, and yet be taught for doctrine, it is literally the thing that is here reproved. For the ſecond: Whatſoever is but probably collected is not the word of God, for that is always certain: it is true it is not probable in it ſelf, but in it ſelf is true or falſe; but to him it is but probable, and therefore to ſay this is the word or the Commandement of God, is more then the man can ſay; it is to ſay that it is true in it ſelf, that is, it is a doctrine of God, when indeed it is but the word of Man for ought we know.* For the third; When God hath left it at liberty, if man turnes it into a commandement, and teaches it for the law of God, he does more then God would doe, and more then is true; for God never made it into a law, and man cannot make it to become God's law: for the Eccleſiaſtic order being but God's Miniſter and the publiſher of God's will, muſt propoſe things as they received them from God; that which is law, as neceſſary, that which is Counſel, as highly rewardable. For the fourth; If it be left in the power of the Governours, then it is *hoc ipſo* evident that it is not neceſſary, and therefore though it may miniſter to order and diſcipline, yet it muſt doe no more: it may be called *obedience*, ſo long as it is juſtly bound upon us with the cords of a man; but it muſt not in any other ſenſe nor at any time be called *religion*. How theſe two laſt ſorts may be made into laws I ſhall account when I ſpeak of the poſitive meaſures of Eccleſiaſtical laws; but abſtracting from that ſuperinduc'd obligation, to teach theſe things as neceſſary which God hath not made ſo, is to doe as the *Phariſees* did, whom our Bleſſed Saviour ſo reproves.

12. An example of the *firſt* is the *Phariſees* teaching the waſhing of cups and diſhes, becauſe they ſaid that if a Gentile or any unclean perſon had touch'd their veſſel that touch'd their meat, the impurity would goe into their body that eat it, and from thence into their ſoul; and therefore they taught the doctrine or tradition of cleanſing veſſels and waſhing their hands,

εὑρίσκοντες κενὸν τὸ φάρμακον
Πρὸς τὸ κενὸν, as he ſaid in the Greek Comedy; finding out a vain remedy to cure a phantaſtical diſeaſe. Thus in the Church of *Rome*, they *exorciſe* ſalt and water to caſt out Devils; they give

verſes

verſes out of the Pſalms or Goſpels to charm witches; they ring the bells to appeaſe tempeſts, and very many more ſuch ridiculous devices. 2. Of the *ſecond* we have examples enough in the Council of *Trent*, who drew into a body of articles, and declar'd thoſe things, ſome of which are but probable at moſt, and ſome of them apparently falſe, to be articles of faith: and under this thoſe alſo muſt needs be involved, who perſecute men for opinions and doubtfull diſputations. 3. Of the *third*, they are very evil examples who to ſome whole orders of men lay an injunction of keeping Evangelical counſels: ſuch who forbid the whole order of the ſuperior Clergy to marry, and command them that are married to forſake their wives or their office and livelihood. 4. But they are guilty of the *fourth* kind of prevaricating of the words of our Bleſſed Saviour, who perſecute the breakers of an Eccleſiaſtical Law with a ſeverity greater then the violators of a Divine Commandement. For if there be any liberty of any ſort left after an indifferent action is made into a law of man, it is all deſtroyed by them who give leſſe liberty to the tranſgreſſion of that law then to the breach of God's law, under which there is left no liberty, but the liberty of a chearfull and voluntary obedience. For they that doe ſuch things muſt needs at leaſt ſay that ſuch humane injunctions are as neceſſary as the Divine Commandements; for elſe why are they more ſeverely puniſhed?

13. The ſumme is this; Not onely thoſe who expreſſely teach that what they have invented is a Commandement of God, but all they that ſay any thing is a law of God which is not, though it be good, though it be probable, and all they which uſe arts and ſecret devices and little arguments and inforcements, and preſſe indifferent things up to the height and neceſſity of religion and a Divine Commandement, are guilty of this Phariſaiſme, obnoxious to our Saviours reproof, and if it be in the matter of Eccleſiaſtical laws, have exceeded their meaſures and their power, and bind themſelves, but not the conſciences of their ſubjects. A Commandement is not onely then broken when we bid open defiance to it, but then alſo when we doe actions unlike the vertue of it, and actions tending to the violation of it; that is, there are degrees of violation of a Divine law: and an Eccleſiaſtical law that does in any degree break this law of our Bleſſed Saviour is therefore void, and is become intolerable.

14. Of theſe things I ſhall yet give two great examples, one of the *Phariſees*, and another of ſome that follow their example in this affair. God gave a Commandement to the *Jews* of keeping holy the Sabbath-day, their new Moons and ſome other ſolemnities. Now there were many particulars in the obſervation which were not determin'd in the Law; but 1. what was doubtfull was to be expounded by their Doctors. 2. Some things were left to the liberty of good people, and the meaſure of them was beſt determin'd by their Doctors and men learned in the Law. 3. There were ſome Canons Eccleſiaſtical which were outer guards and hedges to the law it ſelf, that men might by thoſe diſtances be kept farther off from ſin; and in theſe things their Rulers alſo had power. Now though all this they could doe, and might pretend an authority from God to interpret the Law and to guide the Conſciences, yet when they fell into ridiculous Commentaries and uſeleſſe Gloſſes, neither the law it ſelf about which their interpretations were imployed, nor their authority which they had from God could ſecure them from tyranny, and corruption, and doing violence

to Conſcience, and impoſing unequal burdens. "Thus we find that their "*Rabbins* taught that upon a ſolemn feaſt-day it was not lawful to catch "fiſh in their ponds, but they might hunt the hens and catch the geeſe in "their yard. They might not blow the fire with a pair of bellows, becauſe "that was too like the labour of Smiths; but they might blow it through "a hollow Cane. They might make a fire and ſet on their pot, but they muſt "not lay on their wood like the ſtructure of a houſe, that is, too artifici-"ally; and you muſt roſt or boyle no more then was neceſſary: and if you "made a fire, you might waſh your feet with warm water, but not your "whole body. You muſt not touch an egge that was laid that day; nay if "you were doubtful whether it were laid that-day or no, yet you might not "eat it, and if that were mingled with a thouſand, you might touch none of "them: but if you kill'd a hen, you might eat the perfect eggs that you "found in her. Theſe and many more ſuch little doctrines they taught to be obſerved, as explications and manners of the obſervation of the Divine Commandement: but theſe I have here tranſcrib'd from the Jewes books, that we may perceive the ſenſe of our Bleſſed Saviour's reproof by the inſtances of their prevarication. He was pleaſed to ſpeak to that of waſhing of cups and platters: but it is alſo ſaid there, καὶ ἄλλα πολλά ἐστιν, *there are many other things*, ſuch as that was which they have received and teach, ſome of which I have recited. Now we doe not find that the Phariſees taught theſe as divine Commandements, but they us'd them as if they were; they did them ὁσίας χάριν, they thought themſelves the more holy for doing them, they accounted them profane that did not, they plac'd much of their religion and Phariſaiſme or ſeparation in them, eſteeming them a part of the divine worſhip: This was their caſe, and Chriſt gave their ſentence.

Mark 7. 4.

15. The other inſtance which I promiſed is the law of the Roman Church in keeping of Lent; which it is certain was no law of Chriſt, not ſo much as the interpretation of a Divine law. Some of them pretend it was enjoyned by the Apoſtles; others of them ſay not, and theſe ſay true; ſo that it is a Commandement of men: but yet this they teach for doctrine in the culpable and criminal ſenſe, that is,

16. 1. They value it more then ſome Commandements of God. I need no other proof but the words of *Eraſmus*, *Veluti parricida, penè dixerim, rapitur ad ſupplicium, qui pro piſcium carnibus guſtarit carnes ſuillas*, *He that in ſtead of fiſh ſhall but taſt a piece of pork is dragg'd to puniſhment almoſt as if he were a parricide. Guſtavit aliquis carnes, clamant omnes, O cœlum! O terra! O maria Neptuni! Nutat Eccleſiæ ſtatus, &c.* If they ſee a man eat fleſh, they are amaz'd, they think the Church is in danger; they put men to death, to the ſharpeſt death of burning alive, for eating fleſh; they ſhut up the Butchers ſhambles, but leave open the publick Stews.

Epiſt. ad Epiſ. Paſil.

17. 2. They account it to be a part of the ſervice of God, not onely as it is an act of obedience to ſuperiors, but in it ſelf and without any relative conſideration. *Bellarmine* ſaies *they are not Chriſtians that eat fleſh in Lent*: which words are extremely falſe, or elſe every one that diſobeys an Eccleſiaſtical law hath forfeited his Chriſtendome; or elſe he places the ſumme and life of religion in the keeping of Lent, and makes it a vital part, expreſsly prevaricating one of the moſt glorious propoſitions of Chriſtianity,

Lib. 2. de bonis operib. c. 9. § tertio addit.

anity, placing the *Kingdome of God in meat and drink*, not in *righteousness and peace and joy in the Holy Ghost*; and doing that which the Apostle hath forbidden, when he said to the *Colossians*, *let no man judge you in meat and drink*. If it were onely a question of obedience to the law, it were to be considered upon a distinct account, and were a sin or duty respectively according to the several dispositions of the person and the law: but no man saies that he is no Christian who at any time breaks any Ecclesiastical law; and therefore in this more is pretended, and it is to be reckoned amongst the διδασκαλίαι, ἐντάλματα ἀνθρώπων, *the commandements of men that are taught for doctrines.*

Rom. 14. 17.

Coloss. 2. 16.

18. 3. They account the exterior action, the body of the injunction, the element of it to be a service of God; and for that part of it esteem themselves the more holy and the better Christians, as appears in their contentions about it, using arguments to prove the very Fast to be a sacrifice, a pure oblation *. Now it is true that fasting is a good ministery to divers holy purposes, but it is no more; it is that which can be supplied by other ministeries as apt, and therefore that in kind is not necessary, nor requir'd; it is that whose work can be done without any ministery at all in some persons & some cases, even by love and by obedience, by hope and fear, which are of themselves direct graces, vertues and parts of the service of God. And therefore the Fathers of the Church press in their Sermons and exhortations to fasting, that they would take care to acquire the end of fasting, to be free from vice, to mortify the affections and lusts; according to that saying of *Isidore*, *Fastings with good works are acceptable to God: But he that abstains from meat, and does evil, imitates the Devils, quibus esca non est, & nequitia semper est, They never eat, but ever doe wickedly and perversly. But he fasts well that fasts from maliciousness and secular ambitions. Take heed therefore*, saies S. *Hierom* to *Celantia*, *that when you begin to fast and use abstinence, you doe not think your self holy. For this strength adjumentum est, non perfectio sanctitatis, it is not the perfection of sanctity, but a help onely.* Νηστείας ὄφελος οὐδὲν, ἂν μὴ καὶ τὰ λοιπὰ ἕπηται πάντα, *and there is no profit at all of fasting, unless all things else doe follow*, saith S. *Chrysostome*; that is ἀποχὴ ἁμαρτημάτων *an abstinence from sin intirely*: and again, *what gain is it if* ἔρημοι καὶ κοιλοδωμάτων *being void and empty of good works we have kept the fast? If therefore another saies, I have fasted all the Lent, say thou, I had an enemy, but I am reconcil'd; I had an evil Custome of detracting from my neighbours fame, but I have left it off; I had an ungodly custome of swearing, but it is now amended.* The summe is this, which I represent in the words of *Prosper*, *jejunia, abstinentiæ, ac cætera hujusmodi, non pro justitia, sed cum justitia Deo sunt exhibenda, Abstinence and fastings are not to be given to God for good works, but with them.* That is, they are of use in order to certain purposes, which when they doe effect they are good, when they doe not, they are useless troubles; and if they then be urg'd beyond their ministery, and instrumentality, and for themselves, then we return to the beggerly elements and rudiments of the synagogue: and if we suffer our selves to be brought under the power of these things by laws and affrightments and spiritual terrors, then we have lost our Christian liberty which was bought by the best bloud of the world.

* Bellar. ubi supra c. 11. §. item.

Lib. 2. Senten. cap. 44.

Epist. 14.

Homil. 3. ad pop. Antioch. & hom. 4. & hom. 16.

L. 3. de vitâ contemplat. cap. 10.

19. 4. But not onely the exterior and instrumental act is absolutely urged and taught as necessary, but a circumstance, a manner and forme of that ex-

terior inſtrument is enjoyned. It is enjoyn'd not that we faſt totally; but that we faſt ſo: you may dine if you will eat at the Merchants hours, after twelve or one of the clock, but you may not eat fleſh; you may eat ſweetmeats, the moſt delicious fiſh, the Sturgeon and the Scarus, the Lamprey and the Oyſter, the Eele and the Salmon, and all the delicacies of Nature, ſo you doe not touch the fillets of a Veal, nor eat an Egge or Milk, Curds or Cheeſe, or any thing that comes from a beaſt or bird. Now what can be the meaning of this, when it comes to be expounded by wiſe and ſober men that can judge of the cauſes and differences of things? For if abſtinence and faſting be the thing that is requir'd, this is nothing of it: if we may dine, if we may fill our bellies with wine and delicacies, if we may eat and, as *Adam* might, of all the garden of *Eden*, it is no great matter as to temperance and abſtinence, as to mortification and auſterities, if we abſtain from one; it may be ſomething as to our health, and ſo certainly it is to very many bodies. It may be an inſtrument of vexation, but it cannot edify. Is any man cur'd of his luſt by eating nothing but fiſh and broaths for forty daies? He may indeed be made ſick by it, and ſo very many are, but the intereſt of no vertue is ſerv'd by it, but by the other permiſſions it may be more deſtroyed; and by fiſhes and broaths and artificial meats proviſions may be too abundantly made *for the fleſh to fulfill the luſts thereof*. What therefore is in this manner of the law, but ſomething of the beggerly religion of meats and drinks? In the daies of *Proſper* they abſtain'd from the fleſh of beaſts, but not of birds; and his ſentence of that kind of faſting is this, "But they that abſtaining from the fleſh of four-footed beaſts, enjoy "the fleſh of Pheſants and other precious birds or fiſhes, ſeem to me not "to cut off the delights of their bodies, but to change them, and to caſt "away the common and cheap delicacies of fleſh, that they may fill their "pleaſures with more delicious and more precious fleſh; not for abſti-"nence, but becauſe ſome fleſh is unclean, or rather, as I ſuppoſe, for the "tenderneſs of their wanton ſtomacks: ſince the nature of any fleſh is not "to be condemned, if it be intended for mans uſe and appointed by God; "but the luſts of the fleſh are to be avoided, which the Devil hath ſuperin-"duc'd and offers to our ſenſes. But they that would ſeem to themſelves "more abſtinent, and by it acquire fame and noiſes, doe ſo abſtain from "fleſh, that they fill their vaſt appetite with rare fruits and curious "broaths: but ſpiritual abſtinence perſwades not to refrain the uſe of cer-"tain meats, but the reſtraint of the luſt and the deſire; and they are ra-"ther to be eſteem'd abſtinent, who forbid not to themſelves the uſe of "ſome meats, but the delights of the body.] And indeed let it be conſi-dered; if a man pretending to mortify his body ſhall abſtain from wine, and will nevertheleſs drink ſherbets and delicious beurages, ſtrong ale and Spirits, I ſuppoſe his body will not by that diſcipline be dead to ſin: and ſo it is in the abſtinence from fleſh, unleſs he alſo abſtain from all nouriſh-ment but what is neceſſary and made pleaſant by want. For thus the holy Primitives when they had gotten the cuſtome of the Lenten faſt, for two daies, or ſix daies, or ten daies, or fifteen daies, according as the humor in-creaſed, they did generally abſtain from fleſh; but ſo they did alſo from fiſh, and wine, and all delicacies, and eat a drie diet, bread and water, herbs and common fruits, turneps and berries, flies and nuts: and yet this they did without making it a religion not to eat a bit of fleſh; but upon occaſion would eat a meale of fleſh, but not very delicious; and when their faſts were of many daies, they were not continual but intermitted. This latter

Lib. 2. de vit. contempl. cap. 23.

I have

I have already proved; but that even in Lent the Primitive Chriſtians did not abhorre fleſh, appears beyond diſpute in the caſe of *Spiridion* Biſhop of *Cyprus*, who when a traveller came to him in the time of Lent very weary and faint, and there was no cold proviſions in the houſe ready dreſs'd, it being a time of faſting, bids his daughter to boyle ſome pork which was in the houſe powder'd for the uſe of the family: ſhe did ſo, and her Father the Biſhop eat of it, and bade his gueſt doe ſo too; who refus'd, ſaying that he was a Chriſtian. The Biſhop replied, therefore the rather you ought not to refuſe; becauſe the word of God hath ſaid, *To the pure all things are clean*. So *Sozomen* tels the ſtory. By which it is apparent, that then it was not the cuſtome for Chriſtians to eat fleſh in Lent, for they eat nothing that was pleaſant, but they abſtain'd becauſe it was pleaſant, not becauſe it was fleſh; for of this they made no religion, as appears in the fact and exhortation and argument of *Spiridion*. And of the ſame conſideration was that law of *Juſtinian*, in whoſe time, which was in the middle of the ſixth Age, the Cuſtome of abſtaining from fleſh in Lent did prevaile much; but becauſe it hapned in *Conſtantinople* to be great ſcarcity of other proviſions, the Emperor commanded the ſhambles to be open and fleſh to be publickly ſold. But *Nicephorus* tells that the people would not buy any, for they began to think it to be religion *not to touch, not to taſt, not to handle*. But the Emperor and the wiſe men knew no religion againſt it. And that which *Marcian* ſaid to *Avitus* in the like caſe is very conſiderable, *We know that charity is better then faſting; for charity is a work of the Divine law*, Νηστεία ὃ τῆς ἡμῶν ἐξουσίας, *but faſting is a thing arbitrary and of our own choice*. * Since therefore to eat fleſh or not to eat it, may become good or bad as it is us'd, and does not ſerve the end of faſting, and ſuch faſting does not ſerve the end of the ſpirit, not onely to make faſting to be religion, to which it does but miniſter, but to call that faſting which they who firſt began Lent would call feaſting and luxury, and to make that to be eſſential to that faſt, and that faſt neceſſary to ſalvation in the ordinary way of neceſſity, is not onely to teach for doctrine the Commandements of men, but to make the impotent, fantaſtick and unreaſonable devices of men to become Commandements.

Lib. 1. hiſt. 11

Lib. 17. cap. 32. hiſt.

Theodoret. hiſt. relig. in Marcian.

20. 5. That this may be an exact parallel with the practice of the Phariſees in that folly which our Bleſſed Saviour reprov'd; the Commandement does ſo little regard the true end of faſting, and that faſting ſo little advance the uſe and intereſt of any vertue, that they ſpend themſelves even in the circumſtances of ſome circumſtances, and little devices of ſuperſtition, taking care not to eat a turnip if boyl'd in a veſſel in which fleſh was put, not to cut their bread with a knife that had carv'd fleſh, not to taſt it, but to waſh their mouth after a little whey or broath, if by chance it hath been touch'd: which things becauſe they can ſerve no end of religion, the law that requires ſuch things muſt needs be fooliſh or ſuperſtitious; it muſt either play with mens conſciences as with a tenniſ-ball, or intimate ſome pollution and unholineſs at that time to be in the fleſh, or elſe at leaſt muſt pretend to greater ſtrictneſs then God does in the obſervation of his poſitive laws; and it certainly introduces the greateſt tyranny in the world, deſtroys peace, and is the moſt unwarrantable of all the follies which can be incident to the wiſer part of mankind, I mean to them that govern others.

I will

21. I will not inſtance in the ridiculous and ſuperſtitious queſtions which they make about the keeping of this Eccleſiaſtical law; as whether it be a dinner or a ſupper if we eat after Even-ſong ſaid at high noon; whether a mornings draught does break the Eccleſiaſtical faſt; whether a man may eat a bit of bread with his drink, and yet be a good ſon of the Church; whether a Cook that dreſſes meat for ſick perſons may lawfully lick his fingers; whether he that eats one bit of fleſh, ſins anew if he eats another; and whether or no he may not at the ſame rate eat fleſh all the Lent after; whether the wet nurſe may eat fleſh, becauſe her baby may have good milk; whether it be lawful to eat birds and fowls, becauſe they were produc'd out of the water: which doughty reaſon did incourage ſome to doe it, of whom *Socrates* ſpeaks, and is mention'd by *Peter Comeſtor* the Maſter of the ſcholaſtical hiſtory. Which queſtions, if they that make them be in their wits, and think other men are ſo too, they muſt needs believe that the keeping of Lent is ſo ſacred, ſo principal a point of religion, ſo great a ſervice of God in the very letter and body, in the cruſt and outſide of it, that the obſervation of it muſt conſiſt in a mathematical point: it is like the Decalogue, the very letters of which are numbred; and if a haire be miſſing, religion ſuffers diminution: and which of all theſe it be, yet in every one of them they doe what the Phariſees did and what Chriſt reprov'd in them, and therefore forbids in all men, they *teach for doctrines the Commandements of Men*.

Lib. 5. hiſt. cap. 21.

22. 6. To return to the particular of the Rule, They make an Eccleſiaſtical law, which is of a relative uſe and nature, to be periodical and perpetual, which is unreaſonable, and may be ſometimes unjuſt, and very often uncharitable, and therefore not the fit matter of an Eccleſiaſtical law. For this is certainly the greateſt deletery of the liberty of Chriſtian Churches, and a ſnare to Conſciences, and is of it ſelf apt to introduce ſuperſtition and the opinion of direct religion into the diſcipline.

23. But this is to be underſtood of ſuch laws which are intended for diſcipline, and are 1. a burden, and 2. of a nature relative to the future, and 3. of an alterable uſe. For if a law were made that every man at a certain time of the year ſhould doe a certain diſcipline to mortify his luſt, it were a fooliſh law; for the man at that time, it may be, needs it not, or he hath another remedy, or he is ſufficiently contrite for his ſins, and does his penance by internal ſorrow, or it may be he cannot at that time mourn, or it may be the cauſe is alter'd, or a greater cauſe intervenes, and *that* ought to be ſerv'd, and therefore not *this*, for if you ſerve both, you tire obedience, and make religion to be a burden: but which is moſt of all, a law of burden if it be perpetual, makes the *willing* to be *ſlaves*, and tempts the *unwilling* to be *rebels*; and becauſe it is intended to miniſter to things contingent and infinitely alterable, if the law be not ſo too, it muſt paſs into an opinion of being a Divine worſhip and religion, or elſe into more then an opinion and imagination of tyranny. Adde to this, that laws of burden are alwaies againſt charity, if they be not done in great neceſſity, or not effective of a good greater then the evil; and therefore to impoſe ſuch laws with a perpetual obligation upon Churches, when it cannot be of perpetual uſe, and at all times good, or juſt at ſuch times *neceſſary*, is againſt the equity & charity of that power which Chriſt intruſted in the hands of them whom he made ſtewards of his houſhold, feeders of his flock, and Fathers of his family.

But

24. But if the laws be relative to what is paſt, and no burden, but matter of eaſe or benefit, or comes from a perpetual cauſe, or that which is unalterable, then the law may be ſuch which will be perpetually conſented to, and kept for ever. Thus the Catholic Church keeps the Lords day, not by an everlaſting ordinance, but by a perpetual conſent, and for a never-failing reaſon; and that which makes it neceſſary now to keep that day, and will doe ſo for ever, is becauſe the reaſon of it is always the ſame; and in this caſe that which was fit at firſt, will be ſo at laſt, and all the way: and things are in that conſtitution and conjunction, that no man can deſpiſe that day, without being careleſſe to return thanks for the reſurrection of Chriſt, and to ſeparate a juſt portion of his time to the more ſolemn ſervice of God. But for all this, this is not a perpetual law impos'd upon all Churches; for God did not impoſe it, and no man hath power to doe it; for no mans power can laſt longer then his life: and therefore no Biſhop can oblige his ſucceſſors by any Canon, without the Civil power ſupervenes and fixes that law by continuation. And therefore although God did enjoyn the Jews an annual faſt for ever, and although the Rulers of the Jews did add ſome more, and they were obſerved for ever: yet this will not infer that therefore now this may be done in a law of the Church. For God who is a law-giver does abide for ever, and therefore his laws are to remain as long as he pleaſe: & the Rulers of the Jews had both the powers, Civil and Eccleſiaſtical, conjunct, and they by a current legiſlation ſtill caus'd their faſts to be obſerved; but yet the ſucceeding ages had been at liberty, and the Sanhedrim might have chang'd thoſe ſolemn days, but that they were eſtabliſhed by Prophets and by thoſe whom they believ'd to ſpeak the will of God: all which make their caſe ſpecial, and not to be drawn into example and warranty in the ſanction of Eccleſiaſtical laws in the Chriſtian Church. * To which let this be added, that the Jews might keep and obſerve a religion of days and meats, and it not being againſt the analogy of their manner of ſerving God, their Rulers had an equal power to make laws in the difference of days and meats, as in any other matter whatſoever. But the laws of the Church muſt miniſter to piety and holineſſe, and to nothing elſe; and they muſt be exacted with prudence and charity, and in no other manner; and they muſt be obeyed in love and liberty, and by no other meaſures: but the day or the meat muſt ever be the leſſe principal in the conſtitution; they may be the *circumſtances*, but *no part* of the Religion, and therefore cannot be perpetual; but juſt as a Venice glaſſe may, that is, if there be nothing to break it, it may abide for many ages, but every thing that ſtrikes it can break the glaſſe, & every requiſite of reaſon or charity can put a period, or take off the neceſſity of that portion in the law, which becauſe it muſt be leſſe principally regarded, muſt accordingly be impoſed and exacted, but cannot be univerſal and perpetual.

25. The reſult of theſe conſiderations is this; 1. Eccleſiaſtical laws may be made by particular Churches, to prevail in their own governments, and to paſſe on their own ſubjects, but may not by one Church be impoſed upon another, much leſſe from one to paſſe upon all.

26. 2. Eccleſiaſtical laws may be made and continued by any authority ſo long as that power laſts, and ſo long as the reaſon of the law does laſt: but it can be no longer a law then it hath influence from the remaining power who is to eſtabliſh it according to the remaining uſefulneſſe.

3. All

27. 3. All Eccleſiaſtical laws in the matter of meats and drinks and days muſt be wholly relative to religion; and the effect of graces and proper duties, and muſt not at all be impoſed with any regard to themſelves, but to the ends of their miniſtery, and muſt live and die according to the nature of Relative beings: but cannot be perpetual, but where neither the cauſe nor the ſubject alters.

28. 4. All Eccleſiaſtical laws muſt be impoſed with liberty: not with liberty of the ſubjects to obey or not to obey, but with the liberty of the whole Church, to change them or to continue them, to exact or to relax them, to bind or to looſe, as may beſt ſtand with prudence and charity, with the intereſts of vertue or the good of the ſubject.

29. 5. Eccleſiaſtical laws muſt ſerve religion, but muſt never pretend to be religion or a direct ſervice of God. It is true that all religious laws of our juſt ſuperiors rightly impoſed in order to any vertue are adopted into the ſociety of that vertue; as a law of faſting does alſo enjoyn a duty of temperance; a law of Chriſtian feſtivity, in order to our joy in God, and praiſing his Name, and paying him thanks, promotes all theſe graces, and therefore he that keeps that day to theſe purpoſes, beſides his obedience, does an act of all thoſe graces. Yet it is to be obſerved that the obſervation of theſe laws can never formally be reckoned to be actions of thoſe graces; they are but miniſteries and inſtruments, and they not neceſſary, but uſefull onely: and therefore he that does not obſerve that day, though it may be he ſins againſt obedience, yet he is not to be judg'd as if he were intemperate, or unthankfull, or unmindfull of God's benefits; becauſe though theſe appointments are made for the ſervices of theſe graces, yet theſe are not the adequate miniſteries of them, they may be done by other ways at other times, and they may at that time be omitted without any neglect of ſuch graces. If there be a juſt cauſe to omit the obſervation, then the omiſſion is neither diſobedience, nor intemperance, nor unthankfullneſſe: but if there be no juſt cauſe, it is diſobedience; and may be any of the other as it happens, but is not certainly ſo. But though in theſe reſpects to obey an Eccleſiaſtical law may be a doing an act of vertue together with the obedience, and ſo a ſerving of God; yet becauſe it is onely in regard of the concomitant act of vertue, which is ſerved by the law, if that law doe not ſerve that vertue, but by any cauſe be deſtitute of it's purpoſe, that external action which the law enjoyns is ſo far from being a ſervice of God, that if it be urg'd imperiouſly, or acted for it ſelf, and delighted in upon the Natural account, it enters into religion, with which it hath nothing to doe, and ſo paſſes into ſuperſtition.

30. 6. Eccleſiaſtical laws if by any means they be taught for doctrines and Commandements of God, they become unlawfull in the impoſition, though the actions of themſelves be lawfull; that is, they are unlawfull laws, and doe not bind the Conſcience, for they are ſuch things in which no man can have authority, for they are a direct deſtruction to Chriſtian liberty, which no man ought to take from us. If they once pretend to a neceſſity beſides the equal neceſſity of obedience, they doe not oblige the ſubjects of any government; but if they pretend to a neceſſity of obedience, they doe not oblige any Churches beſides that whoſe Governours have made the law.

RULE XVIII.

Eccleſiaſtical laws of Ceremonies and circumſtances of external obſervances doe not bind the conſcience beyond the caſes of Contempt and Scandal.

1. THat is they bind onely in publick, and not in private; they bind not for any thing that is in themſelves, but for ſomething that is better then themſelves; they bind, not for our own ſakes, but for their ſakes that look on: and therefore when no body looks on, when they have no end to ſerve, when they doe no good, when they ſignify nothing, they cannot bind at all; for whatſoever binds onely for this reaſon, does not bind at all when this reaſon is not. The Church of *England* commands that when the Prieſt ſays the Reſponſory after the Creed at Morning or Evening Prayer, he ſhall ſtand up: the purpoſe of it is, that the people who are concerned to anſwer may the better hear: but if the prayers be ſaid in private, none being by, or it may be two or three that kneel near him, it is ridiculous to ſuppoſe that the Prieſt ſins if he kneels on to the end of thoſe ejaculations. In ſome caſes he that officiates is bound to turn his face to the Weſt, or to the body of the Church; but if there be no body in the Church, but the Clerk at his ſide, why he ſhould doe ſo, there is no reaſon to be given, and therefore it cannot be ſuppoſed to be bound upon him by the law of the Church.

2. For it is highly conſiderable, that in theſe laws of Ceremonies it is otherwiſe then in laws which concern the matter and inſtances of Divine Commandements. Becauſe the laws of Common-wealths can change actions of themſelves indifferent into the order of vertue and vice, if they be of the ſame matter and naturally capable: as when Inceſt is defin'd to be a forbidden conjunction of perſons too near in bloud, the law by forbidding the marriage of Uncle and Neece for that reaſon, can make that to be inceſt: and killing can by the law be made murder when it is forbidden, or not to be murder when it is juſtly commanded. Thus if there be a law made that corn or gold-lace ſhall be ſold at a certain price, the law which is the meaſure of juſtice in contracts makes that price to be the inſtance of juſtice, and what exceeds it to be unjuſt, if it be a juſt law. Becauſe theſe actions lying next to the inſtances of the Divine Commandement, and plac'd there as outer guards to Gods Law, and being naturally the ſame actions, when the prohibition comes from a juſt authority, then it is made to be *a ſin* by the law, and *that ſin* by the nature and participation of the ſame reaſon. For he that kills his adulterous daughter where it is permitted, does doe the natural act of killing as much as he that kills his Father; but where there is no law againſt it, but by law ſhe is ſentenc'd to death, and that without ſolennities, there is no ἀνομία, and therefore no ἁμαρτία· it is not a ſin unleſſe it be the tranſgreſſion of a law. So that the natural capacity and the ſupervening law together make up the action to be ſuch a ſin. But now this thing can never be in Eccleſiaſtical laws of ceremonies and rules of order: for they are not in their matter and in their own nature

like to religion or next to it; and nothing can be religion but that ſervice which God hath choſen of himſelf, and that which is naturally and internally ſo, as glorification of God, loving him, obeying him, praying to him, believing him, and ſuch other inward actions which are taught to us by our natural reaſon and our prime notices of God. But external actions and miniſteries are then capable of being made *religion* when God appoints them, and not elſe, becauſe God will be worſhipped externally as he is pleas'd to appoint, according to that ſaying of *Origen*, *Nemo qui oculis animæ cernit, alio modò Deum colit quam ſicut ipſe docuit, That man is blind in his reaſon, that will worſhip God otherwiſe then he himſelf hath taught.*

Contra Celſum lib. 7.

3. * This onely, The Church can adopt actions into religion which God hath made ready, and which he hath prepar'd and fitted for religion; ſuch as are free-will-offerings and Counſels Evangelical: for when any man does chuſe to doe any act which God hath recommended and not injoyn'd, this is religion; but this is onely in ſuch things which are real graces appointed by the Divine law, and the inſtance onely is left undetermin'd: and how far the Church can command any of theſe things, I ſhall afterwards inquire; but for the preſent, theſe things can paſs into religion, becauſe God hath ſo prepar'd them.

4. But 2dly, external obſervances can become religion, if they be the outward act of an inward grace; as giving money to the poor, worſhipping God with the body; that is, when they naturally expreſs what is conceived and acted within, not when they come from without: a commandement of man may make theſe actions to be obedience, but they are made religion by the grace within, or not at all. Thus faſting can be an act of religion, when it is naturally conſequent to penitential ſorrow, and the hatred of ſin: but when it is injoyn'd by men, then it is but an inſtrument, and may be ſeparate from all religion, and may be no act of repentance, and can be made to be religion by no man but by the nature of the thing.

5. But 3dly, Ceremonies and rituals and geſtures and manners of doing outward actions cannot be made to be any thing but obedience: they are neither fitted by God, as Counſels Evangelical are, nor yet by nature, as the outward actions of vertue are, to become religion; nay they are ſeparated from being religion by the word of God, by the coming of Chriſt, by his death upon the Croſs; and daies and meats and drinks, and carnal purities, and external obſervances are now both by God and by nature remov'd far from being any thing of the *Chriſtian*, that is, of the *Spiritual religion.*

Coloſſ. 2.

6. The conſequent of theſe things is this, When a law is made, it binds either by the natural goodneſs of the thing, or by the order and uſefulneſs of it's miniſtery to ſomething elſe, or onely by the authority. Ceremonies cannot be of the firſt ſort, but of the ſecond they may, and then they oblige only ſo long as they can miniſter to the end of their deſignation, but no longer. For if that be the onely reaſon of their obliging, then they oblige not when that reaſon is away. Now becauſe they are onely made for order and decency, both which are relative terms, and ſuppoſe an action done in public, there is no need, no uſe of them in private. But becauſe even after

after the reason ceases, the authority hath reasons of it's own to be regarded, and things that are not binding by their absolute or relative nature, may yet bind by the authority and for the reverence of that, till there be opportunity to annul the law, therefore when the reason of the ceremony does cease, or is useless and operates not at all, we must yet regard the authority, that is, doe it honour, as *Samuel* did to *Saul*. If the thing it self be of an intrinsick goodness, though made necessary onely by the positive command, then it is to be done for it self, and in private as well as publick: * but if it be onely a relative ministery, then it hath no reason beyond that relation; and if that relation be publick, it binds onely in publick: * but if it be onely matter of obedience, and have no reason else either absolute or relative, then the law does not bind the Conscience, but even then we are bound so to comport our selves that the authority may not be despis'd nor offended; that is, she is not to be slighted or reproach'd, nor publickly disregarded; though for the obedience it self in this case there is no absolute obligation, but the not-obeying is to be conducted humbly, inoffensively, prudently and regardfully. The reason of these things is this, because the Church makes no absolute laws; she makes them for good ends, and beyond that she hath no authority: her legislative is wholly a ministery of grace and godliness, not of empire and dominion. For the difference is this, Civil laws oblige in publick and in private, for reason and for Empire, when the cause ceases, and when it remains, when the breach is scandalous, and when it is not scandalous: But the Canons of the Church oblige onely for their reason and religion, for edification and for charity, when the thing is useful to others or good in it self; but the authority it self being wholly for these purposes, is a ministery of religion, but hath in it nothing of Empire, and therefore does not oblige for it self and by it self, but for the doing good, and for the avoiding evil: and this is that which is meant by the cases of contempt and scandal.

These are the negative measures of ECCLESIASTICAL laws. The positive measures are these.

RULE XIX.

Ecclesiastical laws must be charitable and easy, and when they are not, they oblige not.

1. WHen Ecclesiastical laws were conducted and made by the Spiritual power, the Bishops, Rulers of Churches, before the Civil power was Christian, their laws were either Commandements of essential duty, or of that which was next to it and necessary for it, or else they were indicted to a voluntary people, and therefore to be presumed easy and gentle, charitable and useful, or it is not to be thought the people would have been willing long to bear them. But when the Civil power was the Ecclesiastical Ruler, and the Common-wealth became a Church, the Spiritual sword was put into a temporal scabbard, and the Canons Ecclesiastical became civil laws, though in their matter religious, and in their original they were Ecclesiastical. Now if the laws be established by the civil power, they must indeed be just and good; but yet if they be laws of burden, and

L. Proſpicit. ff. qui & à quibus.

contain a load that is ſupportable, they are to be obeyed. *Quod quidem perquam durum eſt, ſed ita lex ſcripta eſt*, ſaid *Ulpian*; the caſe is hard, but ſo the law is written: meaning that though it be hard, yet the law is to be obeyed ſo long as it is juſt. But when the Eccleſiaſtical law is indicted by the ſpiritual power, the civil power onely conſenting and eſtabliſhing the indicted Canon, that corroboration addes no other band to the Canon then that it be obeyed according to the intention of the ſpiritual power, onely ſo it becomes a law indeed, but it is a law onely as the Church can intend a law, or deſire it to be impos'd; that is, what the Church might reaſonably perſwade, and fitly enjoyn, that ſo much and no more, in that manner and no other, the Civil power does corroborate it. For the Eccleſiaſtical Canon put into the hands of the civil power and made into a law, is like the twig of an apple-tree grafted into the ſtock of a thorn; it changes not the nature of it, but is ſtill an apple: ſo is the Canon, ſtill it is but an injunction of the Church, though the Church be enabled temporally to chaſtiſe the rebellious; but ſtill the twig that is ſo ingrafted muſt retain it's own nature, and muſt be no ſowrer then if it grew upon it's own ſtock; it muſt be ſuch as is fit to be perſwaded, ſuch which men can be willing to, and eaſy under, and of which they ſhall have no cauſe to complain: for ſince the Church in theſe things hath no power but to exhort and to perſwade, and therefore can injoyn nothing but what can be reaſonably perſwaded; ſhe muſt not by the aid of the temporal power injoyn thoſe things which are cruel and vexatious, and ſuch to which no argument but fear can make the ſubject willing. The Church when ſhe hath temporal poſſeſſions, alwaies is a good Land-lady, and when ſhe makes judgments ſhe meddles not with bloud, but gives the gentleſt ſentences, and when ſhe is admitted to a legiſlative, ſhe enjoyns a ζυγὸς χρηστὸς an eaſy, a gentle yoke, and when ſhe does not, the ſubject is concerned to avoid the temporall evil threatned by the civil power; but not to give obedience to the intolerable law of the Church, as in that capacity: for unleſs the law of the Church be ſuch that good men may willingly obey it, it cannot be injoyned by the Church, and the Church ought not to deſire the civil power to doe it for her: For ſince ſhe hath no power to command in ſuch things where the Divine authority does not intervene, all the reſt is but perſwaſion; and he that hath power onely to perſwade, cannot be ſuppoſed to perſwade againſt our will: and therefore matters of intolerable burden are not the matter of Eccleſiaſtical laws, becauſe they certainly are againſt the will of all men, who can ſerve God and goe to heaven without them.

2. Not that it is permitted to any man as he pleaſe to obey or not to obey the Eccleſiaſtical laws; nor that the ſpiritual authority ſo depends upon the conſent of every ſubject, that he is at his choice whether he will keep it or no: but that he is to obey willingly; that is, that no more be impoſed then what he may be willing to, and then that he be not diſobedient, when if he were not peeviſh, he ought to be willing. For this is all that ſhare of Chriſtian liberty which under his juſt ſuperiors every ſingle ſubject can enjoy; he may not break the law when he pleaſe, but when he cannot keep it; not when he is not in the humour, but when he is not in capacity; not becauſe he will, but becauſe without great evil he cannot.

3. I ſhall give an inſtance in the Eccleſiaſtical laws of faſting, and by an inquiry into their obligation ſtate the ſenſe and intention of this Rule.

What

What persons are tied to the observation of Ecclesiastical Fasts, and in what cases.

4. To the solution of which question, first we are to consider to what end the Church enjoyns her Fast. For whoever is involved in that end is also concerned in the law, ordinarily and regularly. Thus if a Fast be onely indicted to suppress incontinence, they who have no temptation to it, or have a sufficient remedy by which they please God, are not bound by that law, but in the cases of scandal and contempt. Fasting-spittle kils a Serpent (saies *Pierius*;) but if a man have a rod in his hand that will doe it sooner, that law would be fantastical that should command him to stay till he could kill the snake with his fasting-spittle. * But if the Church intends many good ends in the Canon, any one is sufficient to tye the law upon the Conscience, because for that one good end it can be serviceable to the Soul: and indeed fasting is of that nature that it can be a ministery of repentance by the affliction, and it can be a help to prayer, by taking off the loads of flesh and a full stomach, and it can be aptly ministerial to contemplation; and if fasting were onely for mortification of lustful appetites, then a virgin might not safely fast in publick, lest she fall into the suspicion of incontinence, or be expos'd to the bolder sollicitations of the yong men. Now because every one is concerned in some one or more of these ends of fasting, all people are included within the circles of the law, unless by some other means they be exempted. Lib. 14. Hier.

5. But they are exempted from it who are sick and weak, spent with labour, or apt to be made sick, or hindred in their imployment: *Nisi quem infirmitas impedierit*, saies the Canon law; all are bound to keep fasting daies but such who are hindred by infirmity, C. quadragesimæ, de consecr. dist. 5. & cap. 2. § cum autem de observ. jejun.

——————*seu*
Dura valetudo inciderit, seu tarda senectus,

any bodily infirmity, whether of age or sickness, weakness or disease. Concerning which, if the infirmity be evident, there is no question, for the law does except such persons in the very sanction, or publick and authentick interpretations, and common usages. Women with child, children and old persons, the sick and the traveller, the weary and the weak, the hard student and the hard labourer, the poor man and the beggar, these are persons which need not ask leave, for the law intends not to bind them. Now those that are but probably so, that is, not well, apt to be sick, suspected with child, not very weary, these also are within the power of having leave given them, that is, capable of dispensation; that is, it may be declared that the law intends not to bind them at all in such cases. So that upon this account none are bound but the lusty and the lazy, the strong and the unimployed.

6. Now in these things there is no other certaintie but what is set down in the laws of every Church respectively, save only this, that in all Churches where such laws are us'd, they are ever expounded by the measures of great Charitie and Remission, excepting in such places where they place Religion in external observances; and yet there also they pretend great gentleness when they are charg'd with want of it by their adversaries, as is to be seen in *Albericus Pius* his Lucubrations against *Erasmus*.

7. But I conſider that the laws of faſting are therefore very ſparingly to be impoſed, when there are ſo many cauſes of being excus'd; and not at all but upon great occaſions, and particular emergencies: and when they are, the injunction is to be ſo made, as feweſt may be excus'd, and none may deſire it but thoſe who cannot help it: and the evil of the contrary is very viſible and apparent in the fierce and decretory injunctions of the long Lenten faſt, the burden of which is ſo great, that they who doe not think it religion, or a law of God, or a part of the Divine worſhip, uſe all the arts they can to be eaſed of the load, coſening the law, and eaſing themſelves, and ſtudying a new Cookery, and deſtroying the end of the law by keeping the letter, and buying diſpenſations, and complaining of the burden, and being troubled when it comes, and glad when it is over. A law of faſting is very imprudent and very uncharitable when it becomes, like *Rehoboam*'s thigh, too big and too heavy for all the people: and what good is done by ſuch faſting, that could not with more eaſe and more charity be acquired by other inſtruments or a better conduct of this? *Mantuan* complain'd with great ſorrow and great reaſon in this particular. Lib. 1. Faſt.

Adjungunt etiam primi jejunia veris;
Quæ niſi ſint ſervata, volunt nos ire ſub orcum.
Aſpice quam duris, aiunt, frænata capiſtris
Gens electa fuit. Lex Chriſti æterna, nec unquam
Ceſſatura, ſinus (dicunt) ſine tendat in amplos,
Ut ſit conveniens, habilisque, & idonea toti
Humano generi, non importuna ſenectæ,
Non oneroſa inopi, non importabilis ægro.

The laws of religion ſhould be, like the yoke of Chriſt, light and eaſy, fitted to the infirmities and capacities of all men; for let them be never ſo eaſy and delightfull, we ſhall be too much tempted to neglect them, though the laws themſelves be no temptation to diſobedience.

8. This is certain, that in a law of ſo great burden in it ſelf, and ſo ſeverely impoſed, and ſo fiercely puniſhed, and ſo religiouſly accounted of, and ſo ſuperſtitiouſly conducted, the conſcience is ſo certainly made reſtleſſe by the ſcruples of the conſcientious perſons, the arts of the crafty, the ignorance of the over-buſy, and the witty nothings of the idly-imployed, that the good which accidentally may be brought to ſome by it cannot pay for the many evils which it regularly produces in others: and that law of faſting can never be ſo good as the peace which it diſturbs. For if you pretend your youth as a juſt excuſe from the law of Lent, you ſhall be told, that the Faſt conſiſts in the quality of the meat, and in the ſingleneſſe of the meal, and in the time of taking it; and that though you are excuſed from eating fiſh or pulſe, yet you muſt eat but once; or if you doe eat at night, yet you muſt not eat in the morning; or if you doe, yet you are to be adviſed how much can be called a meal. And then you are not ſure whether you are to faſt at the beginning, or not till the conſummation of your fourteenth year: and when that is out, if the underſtanding be ſo little as not to underſtand what and why and how, you faſt to no purpoſe; and if ſooner you doe underſtand, it may be you are obliged in conſcience, though not puniſhable by law. * If you be old, yet ſome old men are luſty and ſtrong; and the Church does not intend that the age alone, but that the infirmity ſhould excuſe: and becauſe this infirmity is diviſible, it is not every infirmity that will doe it; and it may be you are an eaſy and too gentle a

judge in your own caſe; therefore you muſt ask; and who ſhall tell you? *Cajetan* and *Navarre*, *Filliucius* and *Gregory Sayr*, *Diana* and *Azorius* underſtand no phyſic; and they can tell you ſomething in general of the law, but nothing abſolutely in your caſe: if you will, be at the charge and goe to a Phyſician: for it may be if you live in the Country, you have a learned man within ten or twenty miles, or it may be fourty, and upon all occaſions you may know of him whether your caſe requires eaſe; or it may be it requires leave this day, but you cannot have your anſwer ſo ſoon, and the caſe will alter by to morrow; and *Hippocrates* ſaid, that *ſenes facillimè ferunt jejunium*, old men bear faſting better then yong men: and though *Cardan* hath upon that Aphoriſme ſpoken according to his uſual manner many ingenious things, yet whether you will put your Conſcience upon him or no is a material conſideration. * But then if you be ſick, you muſt know whether faſting can conſiſt with your condition: for not every ſickneſſe can excuſe you from the holy faſt of Lent; or if you may not eat fiſh, yet you may be oblig'd to the ſingle refection, or to the time. But that which is of material conſideration is, that though you be not well, yet it may be your faſting will doe you no great hurt, and if it be but little, it muſt not be ſtood upon; for faſting is intended to be an affliction of the body, and therefore you muſt not be too haſty to ſnatch at eaſe and liberty. But however, if you will inquire of learned men, you may have from the Phyſicians ſome twenty or thirty rules by which you may gueſſe when and in what diſeaſes you are excus'd from the quality of the diet, when you are diſpenſed in the time, when in the frequency, when you muſt exchange one for the other: and to this purpoſe you may inform your Conſcience by reading [a] *Valleſius*, *Cardan*, *Hollerius*, *Zacutus Luſitanus*, *Paulus Zacchias*, [b] *Alphonſus à Fontech*, [c] *Cognatus*, [d] *Arnoldus de Villanova*, [e] *Petrus Hiſpanus* and his Author *Iſaac*; and if you can find them agree, and that your caſe is deſcrib'd, and their rules be rightly applied, and the particulars be well weighed, and the judgement not byaſs'd by eaſe and fear and too great a care of your health, you might doe well, if it were not for one thing; and that is, that Phyſicians are not to be truſted, for they will ſpeak excellent reaſon for the ſecuring of your health, but they think they are not to anſwer concerning the ſtate of your ſoul; and therefore they leane too much upon the wrong hand for your ſatisfaction, eſpecially becauſe Lent falls in the ſpring æquinox, in which we are very apt to ſickneſſes. * But then if we pretend to be excus'd by reaſon of labour and travel, every man muſt judge for himſelf: and yet there are in this a great many things to be conſider'd; for it muſt be a conſiderable diminution of our ſtrength, and a great inanition of ſpirits that can diſpenſe with us in this ſo great a law: but how great that muſt be, if we be judges, we ſhall be too favourable; if others judge, they cannot tell; and if we fear to be too gentle to our ſelves, we may be too rigorous, and by the laws of faſting break the laws of charity. But then it may be our labour is to come, and it will be neceſſary that we lay in ſtowage beforehand, leſt we faint by the way. And it is a great labour for a man to hunt all day, or to manage the great horſe,

lib. 1. Aphor. 13.

[a] de Victus ratione in acut.
[b] in Specim. med. Chirurg. lumin. 2.
[c] lib. 1. Var. lect. c. 18.
[d] libell. de Eſu carnium.
[e] Comm. in Iſaac de dixta particul.

——leporem ſectatus, equóque
Laſſus ab indomito: vel ſi Romana fatigat
Militia aſſuetum Græcari, ſeu pila velox
Molliter auſterum ſtudio fallente laborem.

Horat. ſerm. lib. 2. Sat. 2.

A little thing will weary a ſoft perſon, and a long ſport will tire a ſtrong man: and my not theſe put in their plea for a pleaſant or an early meal? for

hungry men will plead hard. And the labour of the mind is alſo a great wearineſſe to the bones; and who ſhall tell me how long I muſt ſtudy before I may be allowed not to keep the punctualities of Lent? for the thinking man muſt be fed tenderly and furniſhed with finer ſpirits. But then who ſhall come into this licence is worth inquiring; whether not onely the hard Student, but the Preacher that ſpeaks long, and thinks little; whether School-Maſters, Advocates, Orators, Judges, for every one would be glad of a little liberty: and if the bodily labourer ſhall be excuſed, whether all trades that ſit long, and work eaſily, as Shoomakers, Tailers, Glovers, Book-binders may pretend to an exemption; for though *Azorius* is ſo kind as to except moſt of theſe, yet others doe not. And what ſhall the poor man doe? his rule is commonly to eat when he can get it; and if he be at a friends houſe muſt he refuſe to eat, becauſe it is not his time? or muſt he ſtarve, becauſe there is nothing but fleſh?

Unde fames homini vetitorum tanta ciborum eſt?

Certainly he can hardly be tied to the meaſures and rules of eating Eccleſiaſtically, that every day is in diſpute whether he ſhall or ſhall not have ſomething that he may eat naturally. But yet he is to inquire whether he be tied on thoſe days to faſt when he can be provided for: and it would alſo be known whether a poor man is not tied to refuſe fleſh and require fiſh where it can be had; and whether he is not bound firſt to ſpend the fragments of his fiſh-basket before his bits of fleſh, and keep them onely for neceſſity; and whether he may be ſecretly pleas'd that he hath that neceſſity put upon him that he hath fleſh but no fiſh. There are alſo ſome hundreds of queſtions more that might be conſider'd; ſome are pleaſant caſes and ſome are ſowre, ſome can be determined and ſome cannot. But the great caſe of Conſcience in this whole affaire is, What great good that is which this law of Lent thus conducted can effect, which can no other ways be effected, and which can be greater then the infinite numbers of ſin, and doubtings, and ſcruples, and fears, and troubles, and vexations, and ſickneſſes, and peeviſhneſſe, and murmur, and complaints, and laborious arts of excuſe, and cheating the law, and ſlavery, and tyranny, occaſion'd and effected by it.

9. For although faſting is not onely an excellent miniſtery to ſome parts of religion, but of health alſo,

Horat. Serm. l. 2. ſat. 2.

Accipe nunc victûs tenuis quæ, quantaque ſecum
Afferat: imprimis, valeas bene——

yet all the world knows that long faſting is the moſt deſtructive thing in the world to our bodies, and breeds diſeaſes ſharper and more incurable then fullneſſe and intemperance; and therefore the Canon law * forbids a faſt of two or three days, and a faſt beyond our ſtrength. Therefore it is certain that the Church cannot command a long faſt: and therefore in the beginning of the cuſtome of Lent it was but a faſt of one day, or two at moſt, eating at night. And although this faſt was then a faſt of liberty, and permitted to every ones choice; yet it might be enjoyn'd in every Government, according to the fore-deſcribed meaſures. But that in ſtead of a faſt, the Church ſhould preſcribe a diet, an ill diet, not onely unpleaſant, but unwholeſome, and that with ſo much ſeverity, and with ſo much danger, and ſo many ſnares, is no exerciſe of that power which Chriſt hath given her, but of that power which is uſurp'd, ill gotten and worſe adminiſtred. It is againſt the law of charity, and therefore ought not to be a law of the Church;

* C. non dico. & c. non mediocriter. de conſecr. diſt. 5.

Church; that men be tied for forty days together to keep from their uſual diet, not to be temperate, but to be vex'd and rul'd, this I ſay is uncharitable, and therefore unlawfull.

Hoc hic quidem homines tam brevem vitam colunt,
Quum haſce herbas hujuſmodi in ſuam alvum congerunt,
Formidoloſas dictu, non eſu modo:
Quas herbas pecudes non edunt, homines edunt.

Pſeudol. A&t. 3. Scen. 2.

As the Cook in the Comedy complain'd, eating herbs and ill diet makes men to live ſuch ſhort lives. And what intereſt of religion is ſerv'd by eating fiſh and nettle pottage, is not obvious to him that hath tried it, or can conſider it:

Theſtylis hanc nimio pultem ſale fecit amaram;

Mantuan.

Death and ſickneſſe is in this pot. And I remember to have heard a Frier, none of the meaneſt of his Order, ſay, that he never kept Lent for a long time together, but at Eaſter he had a great fit of ſickneſſe: and therefore as the Canoniſts ſay that a future labour & wearineſſe may legitimate the breach of the ſtrict meaſures of the law as well as if it be actual & preſent; ſo may the fear of ſickneſſe as well take off the obligation as when it is preſent: and of this, every man that is not of an athletic health hath reaſon to be afraid.

10. But that which relates alſo very much to the law, though not ſo much to us, is this, that all this trouble is for little or no good: if there be any good in it, it is relative, and tranſient, and contingent, and inconſiderable, and without hazard otherwiſe to be acquired. For though fools and poor folks are ſometimes preſs'd with the evils of ſuch a change of diet, yet the witty and the rich can change all that law into the arts and inſtruments of pleaſure. For the greateſt feaſts and the greateſt Epicuriſmes uſe to be in fiſh. So he in the Comedy,

Muſicè herclè agitis ætatem, ita ut vos decet:
Vino & victu, piſcatu probo, electili
Vitam colitis;

Moſtell. A&t. 3. Scen. 2.

Wine and choice fiſh make muſic at the Table.

Nam in re præſenti, ex copia piſcaria
Conſulere licebit.

Caſina, A&t. 2. Scen. 8.

They are forbid no ſorts, no quantity, no delicacies of fiſh or wine. And if this be objected to them, they anſwer, that fiſh is leſſe pleaſant, leſſe nutritive then fleſh, and therefore wiſely choſen by the Church to be the entertainments of our Lenten table: but if you object, that fiſh is therefore not to be eaten becauſe it is unwholſome, breeds ill juices, and afflicts the body; * they anſwer, that we are miſtaken; that fiſh is a delicacy; that *Alexander* the great was ſo delighted with little fiſhes, that he would ſend them for preſents to his deareſt friends; that *Suetonius* tells the ſame of *Auguſtus Cæſar*; that *Bullinger* tells that the *Rhodians* eſteem'd them that lov'd and liv'd much upon fiſh to be gentlemen and well bred, and all others clowns and of a rude palate; that *Julius Cæſar* at one triumphal feaſt entertain'd his gueſts with 8000 lampreys; that the great feaſt which *Metellus* made, & which we find deſcrib'd in * *Macrobius*, was eſpecially made coſtly and *delicious* with the fiſh there preſented.

* Vide Paul. Zacchiæ Quæ. medico-legal. lib. 5. tit. 1. quæſt. 2. Lib. 2. de Conviv. cap. 25. vide Athenæum lib. 1. Deip. cap. 25. * lib. 3. Saturnal. cap. 13

——quo pertinet ergo Proceros odiſſe lupos?

He therefore that objects againſt the ſeverity and affliction of the Lenten diet, knows not the arts of feaſting; and complains of the Church for a ſtep-mother, when ſhe is not onely kind, but fond alſo in making ſuch proviſions,

viſions. But if fiſh be unwholeſome, then eat herbs, but at no hand fleſh.

15. Metamorph.

Parcite mortales dapibus temerare nefandis
Corpora: ſunt fruges, ſunt deducentia ramos
Pondere poma ſuo, tumidæque in vitibus uvæ.
Sunt herbæ dulces, ſunt quæ miteſcere flammâ
Mollirique queant; nec vobis lacteus humor
Eripitur, nec mella thymi redolentia flore.
Prodiga divitias alimentaque mitia tellus
Suggerit, atque epulas ſine cæde & ſanguine præbet.
Carne feræ ſedant jejunia.———

For lions and wolves, tigres and bears eat fleſh; but God hath provided great variety of other things beſides fleſh. In ſome places milk is permitted, in all, herbs and fruits and broaths: and theſe are agreeable to a weak ſtomack; according to that of S. *Paul*, *Qui infirmus eſt, olus manducat*, *He that is weak eateth herbs*; it is the argument of *Bruyerinus*.

de Re cibar. lib. 8. cap. 1.

11. But I ſhall make a better uſe of it if I ſhall obſerve that S. *Paul* gives it as a note of infirmity, when Chriſtians upon pretences and little arguments ſhall not dare to eat fleſh, but in ſtead of them eat herbs; they are weak in faith that doe it, and doe not conſider that fleſh can as well be ſanctified by the word of God and prayer, as lettice and aſparagus: and that a little fleſh and courſe and common, will better ſerve the end of faſting, and that faſting better ſerve the end of religion, then variety of fiſh, and a belly fill'd with fruits and wind and ſuperſtition. All or any thing of this may be done in diſcipline, and with liberty: but becauſe it may be unfit for ſo very many, and for all at ſome time, and may produce much evil, and hath in it no more good then to give us cauſe to ſay that it may be us'd, it is a very unfit thing to become the matter of an Eccleſiaſtical law, a trouble and danger to the body, and a great ſnare to the conſcience, which it may intangle, but it can never cleanſe:

Horat. ubi ſupra.

———*pinguem vitiis albumque nec Oſtrea,*
Nec Scarus, aut poterit peregrina juvare Lagois.

To eat fiſh or herbs, are of ſo little uſe in religion, they are ſo trifling an exerciſe of the body by reſtraining the appetite, that beſides that all *bodily exerciſe profiteth but little*, this is ſo little of that, as it is conducted, and as it is even in the very permiſſions of the law, that it is not worth all this diſcourſe about it; onely to reſcue the conſcience from ſuch ſnares and little intanglements is of great concernment. * Faſting is very good to ſome purpoſes, at ſome times, and to ſome perſons: but laws regard that *quod plerumque eſt*, and therefore in the matter of a periodical and long-continued faſt cannot but be uncharitable and unreaſonable: and therefore when there is cauſe for ſuch injunctions, they are to be preſs'd with argument and exhortation, not by Empire and neceſſity. For ſuppoſing the law otherwiſe without objection, yet he that faſts againſt his will, does not ſerve God; and therefore externally to be forc'd to doe it, is not a lawfull exerciſe of an Eccleſiaſtical power.

12. The ſumme is this. If it be the faſt of one day, it may be indicted by our lawfull ſuperior, with the meaſures of prudence and charity, and according to the needs of the Church. * But if it be the faſt of many days together, it is a burden, and therefore not to be exacted, leſt it be uncharitable.

uncharitable. But if there be a law, the law ought to bend in all the flexures of reason and a probable necessity, and to prevail onely by the reason of the thing, not the force of a command. * But if it be no fast, but a change of diet, it is of so little profit, that it will not recompence the trouble, and will turn into superstition, and will more minister to evil then to good, and is not properly the matter of an Ecclesiastical law, and the Bishop hath no power to make a law in this matter: it is not for God, and it is not for religion, but for vanity, or Empire, or superstition.

13. This onely I am to adde in order to the determination of our conscience in the practice of this inquiry, That if there be a law made by the Civil power for the keeping Lent, then it is for civil regards, and the law is not for superstition, but therefore to be observed as other civil laws are, with the same equity and measures of obedience; of which I am to give further accounts in the Chapter of the Interpretation and diminution of humane laws. But if it be still an Ecclesiastical law, indicted and suggested by the spiritual power, and onely corroborated by the civil power, and for them efformed into a law, then it obliges the Conscience no otherwise then it did and ought to doe in the hands of the spiritual power; that is, onely when the law is for good, and not for evil, with Christian liberty, and not a snare, when it is fit to be perswaded and ought to be complied with, then and there it may be indicted, and is to be obeyed accordingly.

RULE XX.

Ecclesiastical laws must ever promote the service of God and the good of Souls; but must never put a snare or stumbling-block to Consciences.

1. THE holy Primitives in their laws and actions ever kept that saying of the Apostle in their eye and in their heart, πάντα πρὸς οἰκοδομὴν γινέσθω, Every word, every action must be πρὸς οἰκοδομὴν τῆς χρείας, *for the use of edifying*: Let all things be done for edification: and therefore much more must laws, which have a permanent causality and influence upon the actions of the Church; for therefore they are either a permanent good or evil. 1 Cor. 14. 26. Ephes. 4. 29.

2. When the Churches had hope of converting the Jews by gentleness and compliance in some outward rites, the Church made laws of combination and analogy, of continuation and correspondence in some observances. Thus the Apostles at the Council of *Jerusalem* indicted the abstinence from *blood*, as being infinitely offensive to the Jews, and apt to estrange their hearts from the whole religion of them that eat it. And therefore the law was made that it might cement the stones of the Spiritual building, and the Jews and Gentiles might make the two walls of the Church. But when the Jews refus'd to come in, and excepting the remnant onely (of which S. *Paul* speaks) which were saved, the rest grew to hate the Lord of life, then the Church consider'd that to use their liberty would be for the edification of the Church of the Gentiles; and then they remembred that *Moses had given* Vide ult. caput 2. libri.

given the Jews fleſh, but forbad them bloud, but Chriſt gave us both fleſh and bloud, and forbad neither; and therefore they return'd to that uſe of it that was moſt for charity and liberty, inſtruction and edification. * Upon the ſame account, though the Church was kind to the Jews, yet they would take care not to offend any of her children by retaining words that might abuſe them into a good opinion of their religion; and therefore at firſt they abſtain'd from the name of Prieſt, and Temple, as is to be obſerved in *Juſtin Martyr*, *Ignatius* and *Minutius*. * At the firſt the Chriſtians kept the Jewiſh Sabbath; but in the Council of *Laodicea* it was forbidden; and in the 70th Canon of that collection which goes under the name of the Apoſtles, which was publiſhed much about the ſame time, the Chriſtians are forbidden [*neque jejunia cum Judæis exercere, nec feſtos dies agere, nec quæ in ipſorum celebritatibus Xenia mittuntur accipere*] to keep the Jewiſh faſts, or feaſts, or to receive their preſents, *viz.* of unleavened cakes which upon thoſe daies they uſually ſent abroad. And the reaſon of the prohibition is, leſt Judaiſme ſhould be valued, and leſt Chriſtians be ſcandaliz'd at ſuch compliance, as *Zonaras* and *Balſamo* note upon that Canon of the *Laodicean* Council, but is more fully diſcourſed by *Conſtantine* upon the keeping of *Eaſter*, as *Euſebius* reports in his life.

Can. 29.

Lib. 3. cap. 17.

3. To this end all Laws and Canons muſt be made; not onely for that great reaſon, becauſe the end of the Commandement is charity, and of all Eccleſiaſtical government is *the building up* the Church *in love*; but becauſe the Church hath no power to make laws which are not for edification: and this the Apoſtle teſtifies twice in one Epiſtle uſing the ſame words; that the power and *authority which the Lord had given* to him, was for *edification, not for deſtruction*. * And this is not onely ſo to be underſtood, that if the Church makes laws which are not for edification, ſhe does amiſs; but that ſhe obliges not, her laws are null, and doe not bind the Conſcience. For it is otherwiſe here then in civil laws: right or wrong the civil conſtitutions bind the body or the ſoul; but becauſe the verification of the laws of the Church is in the hands of God, and he onely materially and effectively puniſhes the rebellious againſt this Government, it is certain he will doe onely according to the merit of the cauſe, and not verify a power which he hath forbidden. But in the civil Courts there is a puniſhment that is exterminating or afflictive, which can puniſh them whom God will finally abſolve. Therefore it is that when the Church does any thing beyond her commiſſion, ſhe does no way oblige the Conſcience, neither actively nor paſſively: the Church puniſhes no man temporally, and God will not either temporally or eternally afflict thoſe who doe not obey there where he hath given no man power to command. And this is greatly to be obſerved in all the caſes of Conſcience concerning Eccleſiaſtical laws. If we underſtand where the ſpiritual power can command, where ſhe can exhort and ought to prevail, we have found out all the meaſures of our obedience. But if ſhe goes beyond her commiſſion, ſhe hurts none but her ſelf; for ſhe hath nothing to doe with Bodies, and our Souls are in ſafe hands. And the caſe is much alike, in caſe the ſpiritual law be bound by the civil power: for the King when he makes laws of religion is tied up to the Evangelical meaſures; and if he prevaricates, he does indeed tie us to a paſſive obedience, but the conſcience is no otherwiſe bound; and he is to govern Chriſts Church by the ſame meaſures with which the Apoſtles did, and the Biſhops their ſucceſſors did and ought to doe before the civil power was Chriſtian.

Ephes. 4. 16.

2 Corin. 10. 8.
2 Cor. 13. 10.

Chriſtian. For he hath no more power over conſciences then they had; and therefore he ought not by the afflictions of the body to invade the ſoul: but if he does, ἔχῃ δυνάμιν, ἀλλὰ μὴ ἐξουσίαν, he hath onely power over bodies, but no authorityover the Conſcience. This being conſidered, the Rule hath effect in the following particulars.

4 1. This Rule is to be underſtood poſitively and affirmatively; that is, The Church in all her conſtitutions muſt take care that the Church be edified and built up in ſome grace or other. But not ſo, that whatſoever is for edification ſhe hath power to command. The meaſures and limits of her legiſlative power I have already deſcrib'd *; it muſt be within thoſe circles: and though other things without them may be uſeful, and fit for inſtruction, or to promote the intereſt of a vertue; yet Chriſt hath left them at liberty, and his Church hath no power to bind beyond his commiſſion. They can exhort and perſwade, and by conſent they can preſcribe; but to the making of a law there is ſomething elſe requir'd, beſides that it be apt to edify or to inſtruct. For (beſides that it muſt be of ſomething plac'd in her power) it muſt edify, and not deſtroy; it muſt build up, and not pull down; that is, it muſt build with all hands, and not pull down with one.

* Rule 1, 2, 3, 4, of this chapter.

5. I inſtance in the inſtitution of ſignificant ceremonies, that is, ſuch which are not matters of order and decency, but meerly for ſignification and the repreſentment of ſome truth or myſtery. Thoſe which are prudently choſen are in their own nature apt to inſtruct. Thus the uſe of pictures in the Greek and in the Lutheran Churches is ſo far uſeful, that it can convey a ſtory, and a great and a good example to the people that come thither, and ſo far they may be for edification. But becauſe theſe can alſo and doe too often degenerate into abuſe and invade religion, to make a law of theſe is not ſafe; and when that law does prevail to any evil that is not eaſily by other means cured, it does not prevail upon the Conſcience: and indeed to make a law for the uſe of them, is not directly within the commiſſion of the Eccleſiaſtical power.

6. But there is alſo more in it then thus. For although ſignificant ceremonies can be for edification to the Church in ſome degree, and in ſome perſons; yet it is to be conſidered whether the introducing of ſuch things does not deſtroy the Church, not onely in her Chriſtian liberty, but in the ſimplicity and purity and ſpirituality of her religion, by inſenſibly changing it into a ceremonial and external ſervice. To the Ceremonial law of the Jews nothing was to be added, and from it nothing was to be ſubtracted; and in Chriſtianity we have leſs reaſon to adde any thing of ceremony, excepting the circumſtances and advantages of the very miniſtery, as time and place, and veſſels and ornaments and neceſſary appendages. But when we ſpeak of rituals or ceremonies, that is, exterior actions or things beſides the inſtitution or command of Chriſt, either we intend them as a part of the Divine ſervice, and then they are unlawful and intolerable; or if onely for ſignification, that is ſo little a thing, of ſo inconſiderable uſe in the fulneſs and clarity of the revelations Evangelical, that beſides that it keeps Chriſtians ſtill in the ſtate of infancy and minority, and ſuppoſes them *alwaies learning, and never coming to the knowledge of the truth,* it ought not to ſtand againſt any danger or offence that can by them be brought to any wiſe and good Chriſtians.

7. In ſome ages of the Primitive Church, and in ſome Churches, they gave to perſons to be baptized milk and hony or a little wine (as we read in *Tertullian* and S. *Hierom*) to ſignify that thoſe Catechumens were babes in Chriſt; and in a *rebus* to recommend to them that ſaying of S. *Peter*, *as new-born babes deſire the ſincere milk of the word.* Now beſides that this was not uſual, to give hieroglyphics where they had plain precepts, and to give ſigns of things that were preſent and perceiv'd; it was of ſo very little uſe, that all Churches that I know of have laid it aſide. It was alſo a cuſtome anciently, when they brought the bread and wine to the altar or Communion-table, to preſent milk along with it; and this alſo did ſignify nutrition by the body and bloud of Chriſt. But the Councel of *Bracara* forbad it upon this reaſon, *quia evidens exemplum Evangelicæ veritatis illud offerri non ſinit*, becauſe Chriſt did no ſuch thing, and commanded no ſuch thing; and therefore nothing is to be added to thoſe ceremonies which Chriſt left. * And indeed if the Church might adde things or rituals of ſignification, then the walls might be cover'd with the figures of Doves, Sheep, Lambs, Serpents, Birds, and the Communion-table with Bread, Wine, Herbs, Tapers, Pigeons, Raiſins, Hony, Milk and Lambs, or whatever elſe the wit of man or the nature and ſenſe of the myſteries might invent or import. But concerning ſuch things as theſe, the judgment of *Balſamon* is this; *Eos malè facere arbitror, qui in Eccleſia columbas emittunt pro Spiritûs ſancti adventu; & qui pro illa ſtella quæ novo modo apparuerat, & erat admirabilis, cereos accendunt; & qui arcanam & ſalutarem Domini, & Dei, & Servatoris noſtri Jeſu Chriſti generationem thoro ſtrato exprimunt; & quæ ſunt ſupra rationem & mentis cogitationem humanis adinventionibus deſcribunt.* To let a Pigeon fly to ſignify the coming of the Holy Spirit; to light up candles to repreſent the Epiphany; to dreſs a bed to expreſs the ſecret and ineffable generation of the Saviour of the world; to which he might have added, to prepare the figure of the Crucifix, and to burie an image to deſcribe the great ſacrifice of the Croſs for the redemption of mankind; theſe are things to no purpoſe: not onely for the levity and theatrical gayeties and repreſentments unbefitting the gravity and purity and ſpirituality of Chriſtian religion; but alſo the manner of teaching theſe truths by ſymbolical things and actions is too low, too ſuſpicious, too dangerous to be mingled with the Divine liturgies. Chriſt may as he pleaſe conſign his own good things that he gives us; but he conſigns no good, and repreſents none, but what he alſo gives and effects in that miniſtration and under that ſign: but a ſymbolical rite of humane invention to ſignify what it does not effect, and then introduc'd into the ſolemn worſhip of God, is ſo like thoſe vain imaginations and repreſentments forbidden in the ſecond Commandement, that the very ſuſpicion is more againſt edification then their uſe can pretend to. But if any ſuch ritual or ceremony be introduc'd by cuſtome or by conſent, it ought to be us'd as men uſe their champignons; they boyl them in three or four waters, cleanſing them both by water and fire before they be us'd at all; much more before they be perſwaded into a law.

Lib. 1. contr. Marcion. Dial. adv. Luciferianos.

Cap. 1.

In Can. 82. Synod. 6. in Trullo.

8. 2. But when they can be innocently us'd, that is, when they can be made uſefull, and yet be innocent in themſelves, yet it is to be taken care of, that they may not onely by their abuſe, or by miſtake, but that by their number they be not troubleſome and inconvenient. This advice I learn from S. *Auſtin*, in whoſe time the Church had gone beyond her rule and beyond

beyond her power in the introducing or permitting to be introduc'd very many significant ceremonies; every one of which he could not directly blame, but yet they were servile burdens, and intolerable besides, by their number and their load. [*Etiamsi non intelligatur quomodo contra fidem sunt, tamen quoniam onerant religionem, & servilibus oneribus premunt quam Christus voluit paucissimis & manifestis celebrationum Sacramentis liberam esse; propterea faciunt ut tolerabilior sit conditio Judæorum, qui etiamsi tempus libertatis non agnoverunt, legalibus tamen sarcinis subjiciebantur, non humanis præsumptionibus*] *Although it is not to be understood how these things are directly against the faith, yet they burden religion, and load with a servile pressure her whom Christ left free and charg'd onely with the two Sacraments: therefore our case is worse then that of the Jews; for though they had not a time of liberty, yet they were charg'd onely with burdens that God impos'd, but not with the presumptions of man:* which words are a severe condemnation of such laws and customes Ecclesiastical. And therefore there is reason to celebrate and honour the wisdome and prudence of the Church of *England*, which hath in all her offices retain'd but one ritual or ceremony that is not of Divine ordinance or Apostolical practice, and that is, *the Cross in baptisme*: which though it be a significant ceremony, and of no other use, yet as it is a compliance with the practice of all ancient Churches, * so it is very innocent in it self, and being one and alone is in no regard troublesome or afflictive to those that understand her power and her liberty and her reason. I said, she hath one onely ceremony of her own appointment; for the Ring in marriage is the symbol of a civil and a religious contract, it is a pledge and custome of the nation, not of the religion: and those other circumstances of her worship, are but determinations of time and place and manner of a duty; they serve to other purposes besides signification, they were not made for that, but for order & decency, for which there is an Apostolical precept, and a natural reason, and an evident necessity, or a great convenience. Now if besides these uses they can be construed to any good signification or instruction, that is so far from being a prejudice to them, that it is their advantage, their principal end being different, and warranted, and not destroy'd by their superinduc'd and accidental use. * In other things we are to remember that figures and shadows were for the Old Testament, but light and manifestation is in the New; and the *Egyptians* indeed did teach religion by Symbolical figures; and in the Eastern Empire their laws were written with characters and abbreviatures; and in the schools of *Plato* and *Pythagoras* they taught their scholars by numbers and figures; and *Diodorus* of *Tarsus* and *Origen* brought in an allegorical way of expounding the Scriptures, and almost wholly, but certainly too much left the literal and simple way of interpretation, and so doe the *Perfectionists* and some others at this day: but we that walk in the light of the Gospel, and rejoyce in that light, have received from Christ and his Apostles an easier way of teaching the people; and are not therefore to return to the elements and rituals of Jews and Pagan schools. Christ left no sign but two that did also effect as well as signify: and if they had onely signified, and done no other good, we have no reason to believe that they would have been appointed. But this thing is gone into so great inconvenience in the Church of *Rome*, that there are not onely so many ceremonies as doe fill a book *in folio*; but the reasons and significations of them are offered to us by *Durandus*, *Durantus*, *Vicecomes* and others: but it is certain that all the propositions and mysteries signified by them are

Epist. 119 cap. 19.

* S. Cyprian de lapsis: & epist. 56.

very much ſooner learn'd then the meaning of thoſe ceremonies. But that thoſe rituals or circumſtances of Liturgy, the actions, geſtures, habits, and inſtruments of order and decency be alſo ſignificant, gives an advantage to the things themſelves, and makes their firſt intended miniſtery of ſome more uſefulneſs.

9. 3. Eccleſiaſtical laws are not then for edification when they give offence to the wiſe and to the good; to the lovers of peace and the obedient to government; that is, when there is in their nature ſo much real evil, or ſo much cauſe of jealouſy of which the law-givers cannot purge them, that the good and complying principles that are in the good ſubjects cannot be ſufficient to give them entertainment. But of this the law-givers are to be the Judges; and if they inſiſt upon them when there is cauſe enough to lay them aſide, they *ſin againſt their Brethren*, and *they ſin againſt Chriſt*. But the laws themſelves doe not bind, if the exceptions againſt them be juſt and reaſonable and ſufficient: which whether they be or no, the Church-Rulers ſhall judge at preſent, and God ſhall judge at laſt: and in the mean time there can be no other rule given, but that the ſuperiour and the inferiour endeavour by all waies of prudence and humility to ſatisfy one another. A peaceable mind, and willingneſs to learn, and a charitable expoſition, are the juſt diſpoſitions of the ſubjects duty; and the Governours are to take all the care of ſouls that can be ſuppoſed to be the duty of ſpiritual Fathers: and if theſe things be done, there will be no hatred, and no reproach, and no ſchiſme. But if the queſtion be who ſhall yield, the Governours certainly have authority, and the others ſay they have reaſon: the one ought to be pitied, and the other ought to be obeyed; but both ought to yield: onely the ſubject muſt yield outward obedience though otherwiſe it were not neceſſary, yet if it be lawful, it accidentally becomes ſo; and if it be not lawful, or if he thinks it is not, yet he muſt be careful he give no offence, but modeſtly, humbly and without reproach offer his reaſons againſt the law. But then the Governours alſo muſt yield: they muſt not conſider how much is poſſible for them, but how much is fit; they muſt meditate nothing of Empire, but much of charity; they muſt conſider which will doe moſt good to the ſouls to whom they doe relate; they muſt with meekneſs inſtruct the gainſayers, and with ſweetneſs endeavour to win them, and bear with the infirmities of the weak, if they can perceive the weakneſs to be innocent. But if a crime be mingled with it, and be diſcerned, it is matter of edification that ſuch criminals be diſcountenanc'd, and the Authority be immur'd and kept from contempt. But in theſe and the like accidents the Spirit of God muſt be invocated and implor'd and endear'd, that by his aides the Church may be ſafely and wiſely and charitably governed. Whoever wants wiſdome muſt ask it of God; and God will be eaſily intreated to doe good, and to give good things.

10. This onely is to be added, that according as the matter of the laws is of advantage, or neceſſity, or onely of convenience more or leſs, ſo are the Governours of Churches and Guides of Souls to be more or leſs eaſy in diſpenſing or annulling their laws: till then, neither the Rulers nor the ſubject can by any other means be excuſed from ſin but by a hearty inquiry, and a ſincere humble labour to doe their duty to each other according to the beſt of their underſtanding. For if this does not procure a juſt compliance, it will at leaſt preſerve peace and innocence: and though the firſt is beſt, becauſe

becauſe it includes theſe, yet theſe are the next beſt.

11. 4. Eccleſiaſtical laws that encourage and adorn, and add degrees and moments and zeal to the ſervice of God, are good miniſteries of edification; and till by exceſſe or accident they convert into evil, are of themſelves fit to miniſter to religion.

Of Muſic in Churches.

Thus the uſe of *Pſalmody* or ſinging of Pſalms, becauſe it can ſtirre up the affections, and make religion pleaſe more faculties, is very apt for the edification of Churches. The uſe of Muſical inſtruments may alſo adde ſome little advantages to ſinging, but they are more apt to change religion into aire and fancies, and take off ſome of it's ſimplicity, and are not ſo fitted for edification. *Ad diſciplinas aliquid artificiale organum non eſſe adhibendum*, ſaid *Ariſtotle* as he is quoted by *Aquinas*, Artificial inſtruments are not fit to be applied to the uſe of diſciplines. That is, the muſic of inſtruments of it ſelf does not make a man wiſer, or inſtruct him in any thing. This is true, and therefore they are not of themſelves very good miniſteries of religion. But vocal muſic, being natural, and the action of a man with the circumſtance of pleaſure, if it come to inveſt religion is of great uſe, as all the experience of man can tell. Inſtruments may guide the voice, and ſo they may be us'd; but they are but a friends friend to religion, and can have no near relation to the ſervice of God. *Juſtin Martyr* asks the Queſtion why the Church uſes ſongs in her Liturgy, after the manner of the unwiſe and weak under the Law. Anſwers, ὁ τὸ ᾄσαι ἁπλῶς δέξι τοῖς νηπίοις ἁρμόδιον, ἀλλὰ τὸ μετὰ τῶν ἀψύχων ὀργάνων ᾄσαι, καὶ μετ' ὀρχήσεως καὶ κροτάλων, *That meerly to ſing is not proper to weak and ignorant perſons, but to ſing with inanimate inſtruments, with dancings and with timbrels. Therefore in the Churches we doe not uſe hymns with ſuch organs or inſtruments.* And S. *Chryſoſtom* ſaith that thoſe inſtruments were permitted to the Jews *ob eorum imbecillitatem* for their weakneſſe: and he addes, *As the Jews did praiſe God by all the inſtruments of muſic, ſo we are commanded to praiſe him with all our members, our eyes, our tongues, our eares, our hands.* The ſame thing is alſo affirm'd by *Iſidore Peluſiot*; *Since God permitted ſacrifices and effuſions of bloud for their childiſhneſſe, it is no wonder that he did tolerate that muſic which is made by the harp and pſaltery.* But then in relation to us, he expounds that Pſalm to ſignify not literally, but myſtically. By *the ſound of the trumpet* he underſtands *the memory of the reſurrection*; by *pſaltery and harp*, our *tongue and mouth*; by *timbrel and dances*, our *body and mind*; by *every thing that hath breath*,] *every ſpirit*: Angels and men are called upon to praiſe the Lord. But now upon this account we may eaſily perceive the difference of vocal from inſtrumental muſic in Churches; this being but typical of that, and permitted then when they knew not ſo well to uſe their voices and tongues to praiſe the Lord. And certainly the difference is very material, not onely becauſe we find theſe wiſe men ſaying that inſtruments were typical and permitted διὰ νηπιότητα *for their tenderneſſe and infancy*; but alſo becauſe by the voice and tongue we can properly and directly ſerve God, and as well by ſinging as ſaying, and better, if it be better; which can never be ſaid of inſtrumental muſic: which though I cannot condemn if it be us'd as a help to pſalmody, yet it muſt not be called ſo much

22ª. q. 91. art. 2.

Quæſt. 107. ad Orthod.

in Pſalm. 150.

lib. 1. Ep. 457.

as a circumſtance of the Divine ſervice, for that is all can be ſaid of vocal muſic. But of this the uſe is very great, and I will onely repreſent it in the words of *Juſtin Martyr*; ὑπολείπεται τὸ ᾄδεσθαι ἁπλῶς, *ſimple and plain ſinging is left in Churches. For this ſtirres up the mind with a certain pleaſure unto an ardent deſire of that which is celebrated in the ſong: it appeaſes the deſires and affections of the fleſh; it drives away the evil thoughts of our enemies that are inviſible and ſecretly ariſe; it makes the mind irriguous and apt to bring forth holy and Divine fruits; it makes the Generous contenders in piety valiant and ſtrong in adverſity; and it brings a medicine and remedy to all the evil accidents of our life. S.* Paul *in his ſpiritual armoury calls this the Sword of the Spirit: for it is all of it the word of God which is celebrated, in the mind, in the ſong and in the verſe: it drives away evil ſpirits, and the pious mind is by the ſongs of the Church perfected in vertue.*] The Eulogy is fair and large: but yet all wiſe and ſober perſons doe find fault when the Pſalmody which is recommended to us by the practice of Chriſt and his Apoſtles, does ſenſibly paſſe further into art then into religion, and ſerves pleaſure more then devotion; when it recedes from that native ſimplicity and gravity which ſerv'd the affections and holy aſpirations of ſo many ages of the Church; when it is ſo conducted that it ſhall not be for edification, that is, when it is ſo made accurate and curious that none can joyn in it but Muſicians, and they alſo are not ſo *recitative*, they doe not ſing and expreſſe the words ſo plainly that they which hear doe underſtand; for by this means the greateſt benefit and *uſe of edification* is loſt: as appears in thoſe words of S. *Baſil*, who when he had highly commended τῆς μελῳδίας πρέπον τοῖς δόγμασιν ἐγκαλλώπισμα *the delight of melody mingled with heavenly myſteries*, he addes, Διὰ τοῦτο τὰ ἐναρμόνια ταῦτα μέλη τῶν ψαλμῳδιῶν ὑπενόηται, *For this cauſe were the tunes of harmonious Pſalms deviſed for us*, that they which either are yong in years, or novices in inſtruction, might when they think they ſing, have their ſouls inſtructed in the truth. Ὦ τῆς σοφῆς ὑποθέσεως τοῦ διδασκάλου, ὁμοῦ τε ἅδειν ἡμᾶς καὶ τὰ λυσιτελῆ μανθάνειν μηχανωμένου, *O the great wiſedome of our Heavenly maſter, which at the ſame time deſignes to have us pleas'd and inſtructed to perfection by the ſinging of Pſalms!* But in this and all things like this, the rulers of Churches are to doe that which moſt promotes the end of their inſtitution. *Salus populi ſuprema lex eſto*, is a rule which in this affair hath no exception: the ſalvation of one ſoul is more then all the intereſts in the world beſides.

ubi ſuprá.

in Pſalm.

12. 5. Although Counſels Evangelical being obſerved are greatly for the glory of God and for the edification of the Church; yet it is not for edification that they be injoyn'd, and therefore make not the proper ſubject and matter of Eccleſiaſtical laws: and the reaſon is, all that wiſedome by which God was moved not to injoyn it, even becauſe all men cannot take it, and few men will; and the impoſition is not ζυγὸς χρηστὸς *a gentle yoke*, but is a perpetual ſnare. For here is the difference between things indifferent and Counſels Evangelical, though alike they be left under no command by God, yet for ſeveral reaſons: for things in themſelves indifferent are too little for the ſervice of God, and Counſels Evangelical are too great for our ſtrengths; and therefore God will not be worſhipped by thoſe, and he will not put any neceſſity upon theſe: but yet thoſe may be made matter of humane laws, becauſe they may become uſefull to many purpoſes; but Counſels cannot be made into laws, not becauſe the nature of the things themſelves will not bear the load of a Commandement, but becauſe

becauſe our natures will not: and therefore they are to be advis'd, encourag'd, preached, practis'd, commended and rewarded; any thing but injoyn'd, or made into neceſſary duty. And indeed, when we conſider that Counſels of perfection are a direct worſhip of God when they are perform'd, and that God onely is to make laws of his own worſhip and direct religion, and that in theſe he would make no law, becauſe theſe ſhould not become neceſſary, but the inſtruments of a voluntary ſervice, that in theſe things we might ſhew our love, as in the matter of his laws we ſhew our obedience; the Church cannot have a power legiſlative in theſe, for ſhe is the mouth of Chriſt, to command what he commands, to exhort to what he exhorts: and as the Church cannot make that to be a part of the Divine worſhip which God hath not made ſo, and therefore things indifferent may become miniſteries and circumſtances of religion, but no parts of it; ſo neither can any thing be otherwiſe a Divine worſhip then God hath made it, and therefore man cannot make that to be a neceſſary worſhip which God hath not made ſo, but hath chuſingly and wiſely left to the choice of our will and love. And to this ſenſe was that ſaying of *Athenagoras* in his Apology for the Chriſtians, *Deus ad ea quæ præter naturam ſunt neminem movet*, God moves no man to things which are beſides his nature; that is, he urges no man to doe ſuch things which muſt ſuppoſe great violence to be done to nature.

13. But the great matter in this whole affaire is, that Counſels Evangelical when they are not left at liberty become a ſnare; not onely becauſe they are commonly great violations of our deſires, or great invaſions of our intereſt, and therefore fit onely to be undertaken by a very few and after a long experience of their ſtrength: but alſo becauſe though they be excellencies in themſelves, yet in ſome caſes and in ſome conjugations of circumſtances they doe deſtroy another duty; as giving all our goods to the poor hinders us from making proviſion for our relatives, a ſtate of cœlibate expoſes us to a perpetual uſtulation; and then either by our contrary ſtate of affairs, or by our unequal ſtrengths pull down that building which they intended to ſet up. Some Canoniſts ſay that the Church forbids a mutual congreſſion of married paires upon Feſtival days; upon which days the Jews thought it a ſpecial duty, but the heathens abſtain'd: but how if one be willing, and the other is not? he ſhall be put to diſpute between two duties, juſtice and religion, and ſhall be forc'd like him in the Satyr to ask pardon for doing of his duty;

Ille petit veniam quoties non abſtinet Uxor Juven. Sat. 6.
Concubitu ſacris obſervandiſque diebus.

The Council of *Eliberis* commanded abſtinence from conjugal rights for three or four or ſeven days before the Communion. Pope *Liberius* commanded the ſame during the whole time of Lent; *quia penè nihil valet jejunium quod conjugali opere polluitur*, ſuppoſing the faſt is polluted by ſuch congreſſions: but becauſe this relied upon an heretical ſtock, that marriage is unclean, and ſcarce to be allowed to be holy, of it ſelf it ſeems unreaſonable: but when they commanded that thoſe which were married ſhould that day communicate, and they that did communicate ſhould that night abſtain, (but that they had no power to command any ſuch thing,) the law it ſelf laid a ſnare for ſouls, and if it could have chang'd the action into a ſin, would have ingag'd moſt married paires to become ſinners.

14. Upon the ſame account, but upon very much more reaſon, thoſe Churches which injoyn cœlibate to all their numerous Clergy doe unreaſonably and uncharitably; they have no power to make any ſuch law, and if they had, they ought not to doe it, upon the account of this Rule, becauſe they ought not to lay a ſtumbling-block and a ſtone of offence in their Brothers way.

Of the Marriages of Biſhops and Prieſts.

15. Now concerning this, I ſhall firſt conſider the purpoſe and influence of the Rule upon it. For if this be a ſtone of offence, if this law be directly and regularly a ſnare to conſciences, it is certain it is an ungodly law, and of no obligation to the ſubjects of any Church. Now this relying upon experience and being beſt proved by the event of things, will be ſufficiently cleared by the teſtimony of thoſe wiſe perſons who have obſerved the evil, and wiſh'd a remedy by annulling the law.

16. *Æneas Sylvius*, who was afterwards Pope *Pius* the ſecond, ſaid that the ſingle life of the Clergy was upon good reaſon at firſt introduc'd, but that for better reaſon it ought now to be let alone and taken off. And of the ſame mind was *Panormitan*; ſaying that we are taught by experience that from this law of cœlibate not continency but a contrary effect does follow: for the Prieſts doe not live ſpiritually, neither are they clean, but are polluted with unlawfull mixtures to their great ſin and ſhame, whereas it were chaſtity if it were a ſociety with their own wife. And indeed the ſcandal was ſo great, the ſtories ſo intolerable, their adulteries ſo frequent, their luſts ſo diſcovered, and the accidents ſo ridiculous, that the Clergy became the contempt and jeſt of buffoons and drunkards, and the pity and ſhame of wiſe and ſober men. And it was a ſtrange thing which in the hiſtory of the Council of *Trent* is told out of *Zuinglius*, that writing to the *Cantons* of the *Suiſſes*, he made mention of a law or edict made by the magiſtrates their predeceſſors, that every Prieſt ſhould be bound to have his proper Concubine, that he might not enſnare the chaſtity of honeſt women; adding, that though it ſeem'd a ridiculous decree, yet it could not be avoided, unleſſe the word *Concubine* were chang'd into *Wife*, and the permiſſion before given to unlawfull *Concubinate* might be given now to lawfull *Marriage*. And who pleaſe to ſee inſtances more then enough to verify the infinite ſcandals given by the unmarried Clergy generally, may be glutted with them in *Henry Stephen's* apology for *Herodotus*. * But if he be leſſe relied upon, as being a friend to the complaining ſide, the teſtimony of *Caſſander* will not ſo eaſily be rejected, ſaying, *If ever there was a time for changing of an old cuſtome, certainly theſe times require it; where all the beſt and moſt religious Prieſts acknowledging their infirmity, and abhorring the turpitude of perpetual fornication, if publickly they dare not, yet privately they marry.* And they that did not, did worſe: *for things* (ſaith he) *are come to that paſſe, that ſcarce one in an hundred abſtains from the fellowſhip of women.* And *Alvarus Pelagius* telling ſad ſtories of the inceſts, uncleanneſſe and fornications of the Prieſts and Friers, tells of their gluttony, their idleneſſe and eaſe, their pride and arrogancy, their receiving boys into their houſes and cloyſters, their converſation with Nunnes and ſecular women, that it is no wonder there is amongſt them ſo impure a Clergy, that ſo many good men have complained, and all have been aſhamed of it. And therefore upon

Platina in vita Pii 2. & Sabellicus Ennead. 10. lib. 6. in c. cum olim. de cleric. conjugat.

Vide etiam Sleidan. lib. 3.

Art. 23.

De Planctu Eccleſiæ lib. 2. art. 73.

upon this account we may consider the evils which the Church suffers by such a law which permits their Clergy to walk in the fire, and commands them not to be burn'd; or rather not that so much, but they forbid them the use of cold water: I say, we may consider the intolerable scandals, the infinite diminution of spiritual good, the great loss and hazard of souls, when fornicators and adulterers, paederasts and the impurest persons shall by their sermons and common talk dishonour marriage, and at the same time put their polluted hands to the dreadful mysteries, and their tongues to sing hymns to God, and to intercede for the people, who the night before have polluted the temples of the Holy Ghost, and defiled them unto the ground. But I had rather these things were read in the words of other men, and therefore I shall remit the Reader that would see heaps of such sad complaints to the *Via Regia* of *Weicelius*, to *Andreas Fricius Modrevius de Matrimonio presbyterorum*, and in his [a] *Apology*, [b] *Albertus Pighius*, [c] *Dominicus Soto*, the [d] *Centum Gravamina Germaniæ*, [e] *John Gerson*, [f] *Polydore Virgil*. Many more might be reckoned, but these are witnesses beyond exception; especially if we adde that the complaints were made by wise and grave men many ages together, and that their complaints were of an old canker in the Church, that could never be cured, because the spiritual Physitians did see, but would not take the cause away. For this thing we find complain'd of by S. [g] *Bernard*, *Rupertus Tuitiensis* his contemporary, who compares the Clergy of that age to the *Nicolaitans*, whom God hated for their uncleanness, by the author of the book *de singularitate Clericorum* attributed to S. *Cyprian*, by [h] *Guilielmus Durandus* in his book *de modo concilii Generalis celebrandi*, S. *Hudelrichus* Bishop of *Ausburg*, who wrote against the constrained single life of Priests to Pope *Nicholas*, [i] *Robert Holkot*, [k] *Nicolaus de Clemangiis*, [l] *Petrus de Alliaco*, [m] *Tostatus*, *Platina* in the life of Pope *Marcellinus*. The scandal must needs be notorious and intolerable when so many persons of the ingaged party, of the Roman Church, whence all this mischief came, durst so openly complain, and wish the annulling of the law of single life to the Clergy, or that the spirit of purity were given to all that minister to a pure religion, the religion of Jesus Christ. But the thing it self was it's own indication; it was a black cloud, and all good men abhorr'd it: for things came to that pass, that the Bishops Officials took annuities from all their parish Priests for licences to keep Concubines; and if they came to a continent person that told them he kept none, they replied, that yet he must pay, because he might if he would; as is reported by divers of their own, particularly by the *Centum Gravamina*, and by *Espencæus* in *Epist. ad Titum, cap.* 1. I end this with the words of *Martinus Peresius*, *Multis piis visum est ut leges de cœlibatu tollerentur propter scandala*, *Many pious persons have thought it necessary that the law of Priests single life should be taken away by reason of the scandals which it brings*. For S. *Paul* was so curious, even in this very instance, that when he had but commended the ease and advantages of the single life to all Christians in regard of the present necessity, and the affairs of religion under persecution, he presently claps in this caution, I speak not this to lay a snare before you, *sed vestro commodo*: If any of you find it for your ease or advantage, well and good, but at no hand let it be a snare.

[a] Cap. 20. lib. 4. de Eccles.
[b] Controvers. 15. sub initio.
[c] Lib. 7. de just. & jur. q. 6. art. 1.
[d] Gravam. 75, & 91.
[e] De vita spirit. animæ, sect. 4. corol. 14. prop. 3.
[f] De invent. rerum lib. 5. c. 4.
[g] Lib. de conversione ad clericos, cap. 20.
[h] part. 2. tit. 46.
[i] 183. sect. in Sapient.
[k] De corrupto Eccles. statu.
[l] De reformatione Eccles.
[m] Opusc. contr. Clericos concubinar. concl. ult.

17. 2. But that which next is considerable is, that this law is an intolerable burden. So said *Paphnutius* in the Nicene Council; he call'd it ὑπερβάλλειν τῆς ἀκριβείας *an excess of exactness*: and therefore when some Bishops

1 Cor. 7.

ſhops would have had it made into a law, he advis'd the contrary; *Nolite gravare jugum Eccleſiaſticorum, Lay not a load upon the Eccleſiaſtic ſtate; for marriage is honourable in all men and the bed undefiled:* adding, *that all cannot bear that inſtitution of life that is void of all affections; and as he ſuppos'd, no man ſhould be ſav'd in his chaſtity if husbands were depriv'd of their wives, but that ſuch ſociety was continence and chaſtity.* So *Gelaſius Cyzicenus* tells the ſtory. And though *Turrian* the Jeſuite would fain make the world not believe it; yet he hath prevail'd nothing. For it is not onely related by *Gelaſius*, but by [a] *Ruffinus*, by *Socrates*, *Sozomen*, by *Aurelius Caſſiodorus* the [b] Author of the tripartite hiſtory, by [c] *Suidas*, [d] *Nicephorus Calliſtus*, and by [e] *Gratian*. And the Synod did obey the Counſel. And therefore the third Canon of that Council cannot be underſtood by any learned man to be a prohibition to the Clergy to marry: it forbids a Biſhop, a Prieſt or Deacon, συνείσακτον γυναῖκα ἔχειν, *to have a woman introduc'd*, unleſs ſhe be a Mother, a Siſter, or an Aunt, that is one of whom there can be no ſuſpicion. *Mulierem extraneam, a woman that is not a domeſtic*; ſo [f] *Ruffinus*, [g] *Fulgentius Ferrandus*, and the [h] fourth Council of *Toledo* expound the word συνείσακτον. For by that time the opinion of ſingle life had prevail'd both by right and by wrong; for in the three hundred years of danger and perſecution many that were under the croſs would not intangle themſelves with ſecular relations, but fight naked and expedite: but beſides this, the *Nicolaitans* and the *Encratites* and the *Manichees* and the *Montaniſts* and the *Gnoſticks* and the *Priſcillianiſts* had ſo diſgrac'd marriage, and pretended ſuch purities to be in ſingle life, that it was very eaſy in that conjunction of affairs to inſinuate it into the zeale and affections of ſome leſs-diſcerning perſons, who not being content to have marriage left at liberty as it was during the whole 300. years, would needs have it impoſed: not diſcerning in the mean time that amongſt thoſe who pretended to the purities of cœlibate, ſome would yet bring women into their houſes; ſo did the *Hieracitæ*, as *Epiphanius* reports of them, pretending they did not marry them, but made them houſe-keepers: they were their *gallants*, meer *Platonics*, or, as they call'd them, *ſiſters*; but they would kiſs and embrace tenderly, and ſometimes ſleep together, but ſtill would be thought Virgins, as we find in an epiſtle of S. *Cyprian*, where he commands ſuch perſons to be thruſt from the Communion of the faithful, unleſs they would either marry, or leave the communion of their women (for that gloſs had not yet invaded the perſwaſions of men which ſince hath prevail'd: *Sacerdos amplectens mulierem, præſumitur benedicere*, If a Prieſt imbrace a woman, it is to be preſum'd he onely gives her a bleſſing.) And the ſame S. *Chryſoſtom* tells of them in ſome homily he made againſt thoſe that brought in ſuch women. They were *the companions of their ſingle life*; ſo *Budæus* renders the word: but it was uſual amongſt the Chriſtians of thoſe ages, Virgins to bring in men, and Monks to bring in women: but theſe were condemn'd by the Council of *Nice*; who yet did not prevail, but that they who might have wives or husbands had rather have ſuch friends and companions, which nevertheleſs gave infinite ſcandal and reproach. S. *Gregory Nazianzen* ſpeaks of them with no good will or commendations at all,

Τὰς ὁ συνεισάκτους, ὡς δὴ φάσκουσιν ἄπαντες,
οὐκ οἶδ' εἴτε γάμῳ δώσομεν, εἴτ' ἀγάμους
θήσομεν, εἴτε μέσον τι φυλάξομεν· ὦ γὰρ ἔγωγε
καὶ με λέγειν κακῶς τὸ πρᾶγμ' ἐπαινήσομαι.

In actis concil. Nicen. Pariſ. impreſs. cap. 3. p. 170. Acta ipſa è Vaticana Bibl. prodierũt; latina facta ſunt ab Alfonſo Piſano & Rober. Balforeo Scoto.

[a] Hiſt. l. 1. cap. 4.
[b] Lib. 2. cap. 14.
[c] Verb. Paphnutius.
[d] Lib. 8. c. 19.
[e] Cap. Nicena, diſt. 31.
[f] Hiſt. Eccl. lib. 1. cap. 6.
[g] Cap. 122.
[h] Cap. 41.

Hæreſ. 67.

[*] Ἀγαπητὰς apud Epiphan. hæreſ. 63.

Epiſt. 62.

Orat. 17, & Orat. 18. edit. Savil.

He

He neither knew how to call them *, whether married or unmarried, or between both; but at no hand was that kind of life to be commended: but much less was it to be indured that men by new laws should be crush'd to death or danger under an intolerable burden. This was the sense of the Nicene Council. And the same thing was affirmed by *Dionysius* Bishop of *Corinth* to *Pinytus* Bishop of *Gnossus*, μὴ βαρὺ φορτίον ἐπάναγκες τὸ περὶ ἁγνείας τοῖς ἀδελφοῖς ἐπιτιθέναι, *the heavy yoke of abstinence ought not to be imposed upon the Brethren.* And of this the * Chancellor of *Paris*, a good man and a wise, discourses gravely. "Christ our most wise law-giver hath left "rituals or Judicials to their choice of whom he said, *He that heareth you, "heareth me*; but yet so that they should know they are set over others "for edification, not for destruction: and that they should judge according "to the law of God, which is the general rule for all the professors of Chri- "stian religion under Christ who is their General Abbat; not enlarging it, "not restraining it, or making it harder then Christ expressed it when he said "*his yoke is easy and his burden light.* For the Prelates of the Church have "not power to bind their subjects to any things which are not delivered in "the Evangelical law professed by all Christians; they have no other autho- "rity then Abbats have over their Monks, who, according to the doctrine "of S. *Thomas* and other Doctors, cannot command their Monks any other "thing then what they have professed in their Rule.] Now whether this be a burden or no will need no inquiry, when there is not in all the laws of God so much difficulty as in this very thing; insomuch that without a special gift of God, it is impossible. I need not to prove this tell the sad stories of some Saints who have fallen foully by the sollicitations of their own nature; or how that youth, in which age many enter into holy Orders, is a state of flames and danger; that S. *Hierom* complains of it in his own particular, *Scitis lubricum adolescentiæ iter, in quo & ego lapsus sum*, he lost his glory of a virgin body when he was young: but I consider that those persons who have undertaken it, and had eminent graces, and were persons of rare and exemplar sanctity, yet could not preserve their virgin without almost destroying their body. *Evagrius* the Priest us'd to goe into a well in a winters night, S. *Bernard* into a lake, to cool their burnings: S. *Francis* us'd to roll his naked body in snows, S. *Omar* in nettles, S. *Benedict* upon thorns, S. *Martinian* upon burning coals, to overthrow the strongest passion by the most violent pains. And were not that law intolerable that should command all Ecclesiastics to doe such things? They must doe these or worse: I speak of those who have not the gift of continence. For to say that all men have it, or may have it if they will labour and pray for it, is to speak against reason and * Scripture and experience. It is easier to give our bodies to be burn'd for religion, then to live innocently in the state of perpetual burning: and supposing those Saints now enumerated did by these violent remedies keep themselves from pollution, yet it is not certain that they took the better part when they chose ustulation before marriage, expressly against the Apostle, who not onely said, that it is better to marry then to *fornicate*, but, *better to marry then to burn*: and that these violences did cure their burning, is so false, that they doe suppose them afflicted with burnings, and that therefore they were constrain'd to use violent remedies; for those which men invent are infinitely worse then that which God hath appointed; so easy it was by marriage to cure what they found scarce possible to keep from the extremest mischiefs, but not possible to doe in all degrees, by mortifications. And therefore S. *Hierom* speaking of Virgins that

* Videat lector qui velit plura de sensu hujus vocabuli & Canonis, Gabrielem Vasquiū in 3. disp. 247. c. 4. & Michaelem Medinam lib. 2. de continentia, c. 21. & Georgium Calixtum de conjug. Cleric. p. 174.

* De vita spirit. animæ ubi supra.

Epist. 43. ad Chromatium.

* 1 Cor. 7. 7. Matth. 19. 11.

that did not doe honour to their virginity by real continence, he advis'd them, *ut aut nubant ſi ſe non poſſunt continere, aut contineant ſi nolunt nubere*, that they would contain if they will not marry, or marry if they *cannot contain:* not onely if they cannot contain from outward acts of uncleanneſs, but even from the ſecret deſires of it, and from burnings. *Quid enim prodeſt* (ſaith he) *corporis pudicitia animo conſtuprato?* The chaſtity of the body is of no profit, if the deſires be burning and diſhoneſt.

Ad Demetriad. virg.

In Jeremiam lib. 2. cap. 7.

Caſſo ſaltem delectamine
Amare quod potiri non licet.

So the burning is well deſcrib'd in the Comedy. *Uri eſt illegitimo coitu aut fœdis cogitationibus ſe polluere*, ſaid *Alfonſus Virveſius*, To burn, is to pollute our ſelf with unlawful mixtures, or with filthy thoughts; and theſe deſires are not to be cur'd by mortifications and corporal auſterities. *Nella guerra d' amor chi fuge vince*, ſaith the *Italian* proverb. There is no conteſting againſt this paſſion; even to diſpute againſt it is a temptation, even to faſt and to be hungry does enkindle the flame. *Fames & ſitis exaſperat & incendit animos*, ſaith *Seneca*, Hunger and thirſt make a man angry: and anger and luſt are fed by the ſame fuel,

Philippicâ 18.

——*mea cum deferbuit ira*
Nolo prognatam conſule——

A ſpare and temperate diet gives no extraordinary maintenance to the deſire, and therefore it was advis'd and practis'd in all ages: but there is enough of deſire in ordinary; even that which maintains health will keep up that natural deſire; and that which deſtroys health, deſtroys charity, and hinders us more in the ſervice of God then it can ſet forward. And S. *Hierom* ſaies that he had known them of both ſexes who have by too much abſtinence turn'd mad, and loſt their wits. They that from God's mercy have receiv'd ſtrengths to live ſingly and purely, may uſe it as it ſerves beſt for God's glory and the intereſt of their ſouls, and their own intermedial comforts. But it is to be conſidered, that it is not onely a gift of God that ſome men can contain, but it is a peculiar gift that they will: and it is obſerved by wiſe and good men, that this deſire hath or hath not reſpectively been inſpir'd by the ſpirit of God in ſeveral ages of the Church according to their preſent neceſſities; and when God gives the gift, then every thing wil help it forward. But in the preſent manners and circumſtances of the world, as there is no public neceſſity of it, ſo there is no great care taken to acquire it; for there where the unequal laws of men have brought a neceſſity upon their Clergy, it is with them as with thoſe of whom *Epiphanius* complains, *Ut ne confundantur apud homines occultè ſcortantur, & ſub ſolitudinis aut continentiæ ſpecie libidinem exercent*, They pretend purity in public, and fornicate in private. And it is certain, that ſuch courſes are no fit means to invite the ſpirit of purity to inveſt and adorn the Church. Neither is prayer a certain way of obtaining this gift, any more then of the gift of a healthful or a ſtrong body; for God requires it of none of us directly; if accidentally he does require it, he will give him wherewithall: but therefore the Apoſtle does not ſay, But *if a man does not contain*, let him pray, but *let him marry*. It is ſufficient that God hath given a remedy that is eaſy and infallible to all that love God; and it is beſt to uſe that remedy which is beſt, and was by the beſt Phyſician provided for all that need. *Oportet compati & commetiri doctrinam pro virium qualitate, & hujuſmodi qui non poſſunt capere ſermonem de caſtitate, concedere nuptias*, ſaid S. *Cyril*, Every ones ſtrength muſt be meaſured, and ſo fit our doctrines

Epiſt. 8.

Lib. 6. hæreſ. 60.

In Levit. l. 15.

doctrines to their proportions, and to grant marriages to them who cannot receive the word of *Continence*. And therefore what S. *Austin* said of *Widows* may be exactly applied to *Eccleſiaſtics*, *There are ſome that call them adulterous if they marry, and ſo pretend themſelves purer then the doctrine of the Apoſtle, who, if they would confeſs their name*, mundanos potius ſe quam mundos vocarent, *they would prove to be ſervants of intereſt rather then of purity. For they compel the Widows* [*the Eccleſiaſtics*] *to burnings, becauſe they ſuffer them not to marry. But we are not to eſteem them to be wiſer then the Apoſtle Paul, who ſaith, I had rather they ſhould marry then burn.* Lib. de agone Chriſtian. cap. 31.

And like to this is that of S. *Hierom*, *Si quis conſideret virginem ſuam, i. e. carnem ſuam, laſcivire & ebullire in libidinem, nec refrænare ſe poteſt, duplex illi incumbit neceſſitas, aut capienda conjugis, aut ruendi*, He that conſiders his Virgin, that is, his fleſh, and obſerves it troubleſome and boyling into deſires, *and cannot refrain* himſelf, hath a double neceſſity upon him; either he muſt take a wife, or he muſt periſh. * And therefore they that pretend the gift of continence is in every mans power, ſhould doe well to give God thanks that they find it ſo in their own, but yet they ſhould alſo doe well to believe others who complain that they have it not. S. *Bernard's* wiſh was ſomething to the ſame purpoſe of charity and ſecurity. *Utinam qui continere non valent, perfectionē temerariè profiteri, aut cœlibatui dare nomina vererentur; ſumptuoſa ſiquidem turris eſt, & verbum grande, quod non omnes capere poſſunt*, I wiſh that they who cannot contain, would be afraid to profeſs perfection, and undertake ſingle life: for this is a coſtly tower, and a great word that all cannot receive. Contra Jovin. lib. 1. De converſ. ad Clericos cap. 29.

Æneas Sylvius having gotten a Lady with child, to his Father that was troubled at it he replies, *in ſua poteſtate non fuiſſe ut vir non eſſet*, he could not help it: and when *Origen* had reſolved to live continently, he found no courſe but one would doe it, even by making it impoſſible to be otherwiſe; and he was followed by many, particularly by the *Valeſii*: and *Leontius*, who was afterwards choſen Bp. of *Antioch* by the *Arrians*, having a woman in his houſe, one of the συνείσακτοι of which I ſpake before, being commanded to put her away, emaſculated himſelf that he might have leave to ſleep with her: but that uncharitable folly produc'd a good law againſt it. For what chaſtity is that, or what ſervice of God is it for a man to offer to God a ſingle life when he hath made himſelf naturally impotent? It is (that I may uſe S. *Baſil's* expreſſion) as if we ſhould commend a horſe for not hurting any man with horns. But I obſerve it for this purpoſe, to repreſent upon what terms the gift of continence was to be obtain'd by ſome who would fain, but by this act ſhewed plainly that they could not. Epiſt. 15. Extrem. libro de vera Virgin.

Propterea leges quæ ſunt connubia contra
Eſſe malas . . . . . prudentia patrum
Non ſatis advertit . . . quid ferre recuſat,
Quid valeat Natura pati. Cervicibus (aiunt)
Hoc inſuave jugum noſtris imponere Chriſtus
Noluit. Iſtud onus quod adhuc quamplurima monſtra
Fecit, ab audaci dicunt pietate repertum.

Baptiſta Mantuan. in vita Divi Hilarii.

And therefore thoſe laws that command ſingle life to ſo many thouſands of Prieſts, Italians, Spaniards, Frenchmen, which are none of the moſt continent nations of *Europe*, are a ſnare to thoſe that cannot keep them, and a burden to them that would, and intolerable to both. So *Origen* complains of In Matth. tract. 24.

of ſome imperious and imprudent perſons who in his time would be commanding ſingle life and virginity; *Non ſolum quæ docent non faciunt, ſed etiam crudeliter & ſine miſericordia injungunt aliis majora virtute ipſorum, non habentes rationem virium uniuſcujuſque*, They not onely doe not what they teach, but cruelly and unmercifully injoyn to others things greater then their ſtrength, not regarding the meaſure of every one. For it is a burden bigger then the weight of all the laws of Jeſus Chriſt put together, except to ſuch perſons who are Eunuchs by nature, or have received a particular gift of God; of which they may make uſe as they finde other things concurring. For to be able to contain is one gift, and to be willing is another; and after all, that this can promote any end of religion is but accidental, and depends upon a ſpecial providence and Oeconomy of affairs. It may be uſeful in ſome times, and to ſome perſons, and to ſome purpoſes; but of it ſelf it is no act of religion, no ſervice of God: and that's the next conſideration.

18. 3. The law of cœlibate is an unreaſonable law, and beſides that it does very much miſchief to ſouls, it does no good at all. For if ſingle life have in it any greater purity or ſpirituality then chaſt marriages, yet even that ſingle life is more acceptable when it is choſen and voluntary; and if it be involuntary and conſtrain'd, it is not pleaſing to God: ſo that the law in this caſe does effect nothing but this, that they who are willing may looſe ſomething of the reward, or may be uncertain whether they doe or no; and they that are unwilling are conſtrained either to hypocriſy, which will bring them an evil reward, or to a burden and ſlavery which ſhall bring them none at all. But that which I intended is this,

19. 4. That all this ſtirre is to no purpoſe; for Virginity is not more holy then chaſt marriage, and the one does not more advance religion then the other directly, but by accident, and in ſome circumſtances, and as an inſtrument fitted for uſe in it's own time. For as S. *Auſtin* obſerves well, S. *Paul does modeſtly dehort from marriage, not as from an evil, but as from a burden:*] neither is his advice for all times, but for that preſent neceſſity; neither is it to the Clergy, but to all Chriſtians; neither is it for religion, but for convenience; neither was it from the Lord, but from himſelf; nothing of the Goſpel or ſpirituality, but a matter of prudence, and the exterior conduct of affairs. For Τίμιος ὁ γάμος, and κοίτη ἀμίαντος, marriage is honourable, it is ſo to all, and ſuch mixtures have in them nothing that defiles, and he that is perfect in his conſtitution, if he be alſo ſo much a Virgin as to have *nothing* that defiles, is a rare perſon, but it may be not to be found; but if he be, yet he does arrive but to that ſtate of things in which the married man is, even when he does actually uſe his greateſt liberty, he is ἀμίαντος undefiled. Which thing if the zelots in ſome of the firſt ages of the Church had rightly obſerved, they would not have been ſo fierce for ſingle life upon the account of heretical principles. For they did it becauſe they ſuppos'd marriage to be a pollution: and if they did not expreſsly condemn it upon that ſtock, yet they ſecretly ſuſpected it, as not being confident of the truth of the Apoſtles words, but ſuffering themſelves to be a little abus'd by heretical ſermons, though they did not openly joyn in their communions and profeſſions. The Council of *Gangra* notes ſuch perſons as theſe, that refus'd the communion from the hands of a married Prieſt; but in the fourth chapter pronounces *anathema* againſt them:

De S. Virginit. c. 16.

them: and *S. Ignatius* ſaies that they who call the ſociety of married pairs *corruption*, and *pollution*, have the Devil that great Apoſtate dwelling in them. For what ſtate of life can be purer then that which is undefiled? and from whence ſhall we take the meaſures of purity but from the fountains of our Saviour, from the holy Scriptures, the ſprings of ſalvation? But to this the firſt ages of the Church gave apparent witneſs. *Perfecti Chriſtiani edunt, bibunt, contrahunt Matrimonium*, ſaid *Clemens Alexandrinus*, Perfect Chriſtians eat and drink and make marriages: and therefore the τελείωσις ἱερατικὴ, the perfect ſtate of Orders is not at all impugned or diminiſhed by marriage. *Sozomen* tells of Biſhop *Spiridion*, ἐγένετο γὰρ ἔτι ἄγροικος, γαμετῇ τε καὶ παῖδας ἔχων, ἀλλ' ὁ παρὰ τοῦτο τὰ θεῖα χείρων, He was a plain man, he had wife and children, but not at all the worſe, not at all hindred in Divine things. The ſame alſo is ſaid of *Gregory* Bp. of *Nazianzum* the Father of S. *Gregory* the Divine, and S. *Baſil*, *Etſi matrimonio ſe vinxit, ita tamen in eo vixit ut nihil propterea ad perfectam virtutem ac Philoſophiam conſequendam impediretur.* He comported himſelf ſo in the ſtate of marriage, that he was not at all hindred for obtaining the perfection of vertue and [Chriſtian] philoſophy: and indeed what ſhould hinder him? for marriage does not. *Matrimonium non ſolum nihil nobis obſtat ad philoſophandum Deo, ſi voluerimus eſſe ſobrii, ſed & magnam adfert conſolationem: comprimit enim inſanum naturæ impetum, nec turbari ſinit quaſi mare, ſed efficit ut ſcapha feliciter in portum appellet; & ideo Deus conſolationem hanc tribuit humano generi, For if men will be ſober, marriage is not onely no hindrance to Chriſtian philoſophy, but alſo brings great aids and comfort. For it repreſſes the mad violences of nature, and cauſes that we be not troubled like the enraged ſea, but makes the veſſel arrive ſafely to her port; and therefore God hath given this comfort to mankind.*

Ad Philadelph.

Lib. 7. Strom.

Lib. 1. c. 11.

Greg. Naz. verba ex tranſl. Volaterrani.

S. Chryſoſt. hom. 21. in Gen.

10. For although it be true that, as S. *Paul* ſaies, the *Married cares for the things of the world, the Unmarried for the things of the Lord; He*, how he may pleaſe his wife, *This*, how he may be holy both in body and in ſpirit; yet this is ſo far from diſparaging holy Marriage, or making it leſs conſiſtent with the dignity and offices eccleſiaſtical, that in the world there is not a greater argument to the contrary. For conſider where every ones trouble, and where their danger lies. The Married hath more neceſſities and more affairs in the world, and relations to look after: which if he well provides for according to his power, he hath indeed ſuffered ſome ſecular trouble; but he hath done his duty, & he is ſafe. But the unmarried is alone, & without thoſe relations; & therefore they may if they will let the things of the world alone, and mind the preſent imployment, which then was the miniſteries and attendancies Evangelical. But though they have leſs care of the things of this world; yet their care which lies in another ſcene is a good care indeed, but it is very great and tender, and hath in it very great danger.

1 Cor. 7. 34.

——*pœnæque graves in cælibe vita.* Auſon.

The Unmarried *takes care* how ſhe may be holy or clean in body and ſpirit. And this is a care not onely of greater concernment then that of ſecular ſupplies, but to moſt perſons of extreme difficulty and danger. For it is to no purpoſe to be Unmarried, unleſs they remain *pure in body and in ſpirit*, that is, be free from carnal deſires as well as unclean actions: and how great a care is requir'd to this, I need not ſay, becauſe all men that have tried it know: but this care the Married need not know any thing of; for they have by God a remedy provided for them, and they are in the holy

ſtate of marriage, without that care, holy both in body and mind; ſo that it is eaſy to ſay where the advantage lies. The one takes care to avoid want, the other to avoid damnation. The one hath troubles of this world, the other hath dangers of the other. The hardeſt province which the married man hath is how to pleaſe his wife; but his affairs are ſo well order'd, that he hath not ſuch difficulties to pleaſe God as the other hath: which thing was long ſince obſerved by S. *Gregory Nazianzen*, that indeed ſingle life is higher and better (if it be pure and undefiled) but it is more difficult and more dangerous, and Marriage, which looks not ſo ſplendidly, is yet much more ſafe.] But this compariſon is true between perſons married, and the unmarried that have the gift of continence; for even that gift does not exempt them from great dangers and great labours. But if there be any burning, if there be a fire within, it is ill dwelling in the houſe where there is no chimny; for that the ſmoak will fill every corner of the dwelling, and at leaſt make a perpetual trouble. But between the married, and the unmarried that hath not the gift of continence, which is far the greateſt part of mankind, there is no compariſon at all. And therefore though in reſpect to that conjunction of affairs, to the beginnings of a perſecuted religion, in which many of them were to live an ambulatory life, and ſuffer the ſpoiling of their goods, and be thruſt out of their houſes, the Apoſtle had great reaſon to take care leſt by the greatneſs and ſuperfetations of trouble they ſhould be tempted to forſake, and be vext out of their religion: yet abſtracting from that conſideration, the married eſtate is much more ſecure for the ſtate of ſouls, *& propter eam quæ in nuptiis eſt animi tranquillitatem* (as S. *Gregory Nazianzen* affirms) and for that peace of mind which is in chaſt marriages, and is not in the ſtate of ſingle life with them who are perpetually fighting with a dangerous enemy, who is not alwaies reſiſted, and if he be, is not alwaies put to the worſt. And therefore it was rightly obſerved of S. *Clemens Alexandr. As* [*ſingle life, or*] *Continence, ſo Marriage alſo hath proper gifts and miniſteries which pertain unto the Lord:* but at no hand ought it to be admitted that marriage does hinder the ſervice of the Lord; it ſets it forward very much, but hinders nothing; it may be burdenſome to thoſe who are to travel and paſs from country to country, but to them who fix in a place, and who attend the miniſteries of one people, it is no hindrance; and then to the direct ſervice of God in our perſonal piety and ſpiritual ſafety it is a very great advantage: concerning which who pleaſe may read S. *Gregory* concerning his mother *Nonna*, and the Epiſtles of *Paulinus* * concerning *Amanda* the wife of *Aper*, who were to their husbands admirable advantages both in the affairs of the world and of religion. *Sanctiſſimus Samuel filios genuit: non tamen juſtitiæ ſuæ merita minuit. Zacharias ſacerdos vir juſtus in ſenectute ſua genuit filium. Quâ ergo ratione accuſatur, quod minimè obeſſe probatur?* ſo S. *Auſtin.* To which adde the inſtance of S. *Chryſoſtome* upon thoſe words of *Iſai*, [I ſaw the Lord,] *Quis iſta loquitur? Iſaias ille ſpectator cæleſtium Seraphim, qui cum conjuge commercium habuit, nec tamen extinxit gratiam. Samuel* the moſt holy Prophet, and *Zechary* that juſt Prieſt, and *Iſaiah* that *Seer* who ſaw the celeſtial *Seraphim*, were not hindred from their greateſt graces, favours and perfections by the ſtate and offices of marriage. The event of this conſideration I repreſent in the words of the ſame excellent Doctor, *Quamvis nuptiæ plurimum difficultatis in ſe habeant, ita tamen aſſumi poſſunt ut perfectiori vitæ impedimento non ſint*, Though marriage have in it very much difficulty (in reſpect of domeſtic cares) yet it may be ſo

In ſun. Gorgō.

In ſun. Gorgō.

Stromat. 3.

* Inter Epiſt. Auguſtini. Epiſt. 27. & 29.

Curſt. Ver. & N. Teſt. qu. 127.

In 1 ep. Tim. hom. 10.

ſo undertaken that it may be no impediment to a life of perfection. For even in reſpect of ſecular cares and intrigues of buſineſs the ſingle life, which ſeems in this to have advantage, is not alwaies found ſo innocent and diſintangled, and yet ſometimes even in this very regard a married man hath or may have advantages and eaſe and liberty: *Videmus virgines de ſeculo cogitare, & Matrimonio junctos Dominicis ſtudere operibus*, ſaid S. *Ambroſe*, Men of ſingle lives take care for the world, and we ſee them that are married ſtudy the works of the Lord. And if it were otherwiſe, yet a law to command ſingle life were very imprudent; unleſs they could ſecure that they who have no wives ſhall have no children. But as *Lipſius* ſaid of the Roman Senate, who forbad their ſouldiers to marry, *à Junone arcebant eos, non à Venere, Romanæ leges*, the Roman laws forbad *Juno* to them, not *Venus*, for *Contubernii militibus ſemper jus*, the ſouldiers alwaies might have women, but no wives; ſo it is amongſt the Roman Prelates too much: but unleſs this alſo were ſo denied them, that they could have no children, or that they who have no children ſhall not be ſollicitous to raiſe a poor family, or to increaſe a great, the law were very unreaſonable as to this very pretence. For that things are otherwiſe there where ſingle life is injoyn'd is too apparent, and it is complain'd of by [a] *Alvarus Pelagius* 300 years agoe, and by *Platina* and [c] *Bonaventure*, and it is notorious in all the Popes; divers particulars of which in the inſtance of *Sixtus quintus* are to be ſeen in the excellent [d] *Thuanus*. I end this conſideration with the excellent words of [e] *Salvian*, *Novum prorſus eſt converſionis genus: licita non faciunt, illicita committunt. Temperant à conjugio, & non temperant à rapina. Quid agis ſtulta perſuaſio? peccata interdixit Deus, non matrimonia. This is a new and a ſtrange kind of converſion. They will not doe lawful things, but they commit unlawful: they abſtain from marriage, but not from rapine. O ye fools, why are ye ſo perſwaded? God hath forbidden ſins, not marriages.*

in 1 Cor. 7.

Ad 14. Annal. n. 74.

[a] lib. de Planctu Eccleſ. 2. art. 15. A.D. 1330.
[b] in Johan. 16.
[c] 4. diſt. 27. art. 1. q. 3.
[d] hiſt. lib. 100.
[e] lib. 5. de Providen. Dei.

11. Although theſe conſiderations are a ſufficient explication of this inſtance of the Rule, and verify the firſt intention, that ſingle life ought not by a law to be injoyn'd to any one order of men; yet becauſe the inſtance is of great concernment beyond the limits of this Rule, I adde that the Apoſtles and the firſt ages of the Church not onely forbad that the Clergy ſhould put away their wives, but left it indifferent for any man, or any order of men to marry: and therefore that it ought not now to be done by the preſent guides of Churches, who have leſſe reaſon ſo to doe; and if they had a greater reaſon, yet they have a leſſe authority. But Chriſt and his Apoſtles left it free. Of this beſides the matter and evidence of fact, there being no law of Chriſt or Canon of the Apoſtles to reſtrain it, but a plain ſuppoſition of liberty, and intimation of the thing done in the Epiſtles to *Timothy* and *Titus*, there needs no other teſtimony but that of *Gratian*. *Copula ſacerdotalis, vel conſanguineorum, nec legali, nec Evangelicâ, nec Apoſtolicâ authoritate prohibetur*, Neither the Old Teſtament nor the New, neither Chriſt nor his Apoſtles have forbidden the marriage of Prieſts. To which agrees that of *Panormitan*; *Continentia non eſt de ſubſtantia Ordinis, nec de jure Divino*, To contain from marriage is not of Divine appointment, nor neceſſary to them that are in holy Orders. The ſame alſo is affirm'd by *Antoninus*, as who pleaſe may ſee *in ſumma, part. 3. tit. 1. c. 21.*

26. qu. 2. cap. Sors.

de Cleric. conjug. cum olim.

22. Now then nothing remains to be conſidered but the practice of the Church, which how far it can oblige, I have already diſcours'd: but ſuppoſe it might in other caſes, yet for the reaſons above deſcrib'd it ought to be altered in this; for if ſuch a law may not bind, much leſſe can the practice; and yet if the practice might, here was no Catholick practice. For as for the whole Greek Church, the practice of that is drawn into a *compendium* by Pope *Stephen*. *Aliter ſe Orientalium traditio habet Eccleſiarum, aliter hujus S. R. Eccleſiæ: Nam illarum Sacerdotes, Diaconi & Subdiaconi matrimonio copulantur.* *The tradition of the Eaſtern Churches is otherwiſe then that of the* Roman *Church: For their Prieſts and Deacons and Subdeacons are joyned in marriage.* I ſhall therefore adde no more to this confeſſion but the Canon of the Council of *Ancyra*, which orders that if Deacons in their ordination will profeſſe that they cannot contain, and that they intend to marry, they may. But if then they profeſſe otherwiſe, and doe againſt their profeſſion, they muſt ceaſe from their Miniſtery. And the practice is to this day, that the Greek and all the Eaſtern Prieſts, are if they pleaſe, married men, and moſt of them actually are ſo: though in the Eaſtern Churches they always did exhort their Clergy to continence, yet they left it to their liberty, and they always took it.

diſtinct. 31. c. Aliter.

diſt. 28. cap. 3.

23. In the Latine Church, from the time of Pope *Siricius*, and the ſecond Council of *Arles*, which *Binius* makes about the ſame time, at the end of the fourth Age after Chriſt, there were ſome canons provincial injoyning ſingle life to the Clergy; but the practice was ever againſt the Canon: and as for the firſt 400. years or thereabouts, all had liberty to be married if they pleas'd, ſo even afterwards they would take it, as they ſaw cauſe. This we find in S. *Hierom*, who to *Jovinian*, objecting the marriage of *Samuel*, anſwers, that this was no prejudice to the honour of the virgin-ſtate, *quaſi non hodie quoque plurimi Sacerdotes habeant Matrimonia, & Apoſtolus deſcribat Epiſcopum unius uxoris virum*;] for the Apoſtle deſcribes a Biſhop the husband of one wife, and even at this day moſt Prieſts are married. S. *Hierom* did not contend that all Prieſts ought to be virgins; but that if they that could contain, would, it were much better. But by this, the matter of fact againſt the law was evident. S. *Ambroſe* tells that in moſt remote or private Churches the Prieſts did uſe marriage: *In pleriſque abditioribus locis, cum miniſterium gererent vel etiam ſacerdotium, filios ſuſceperunt.* The clerical marriages were in his time almoſt univerſal: and therefore many endeavoured to perſuade ſingle life as much as they could, and from arguments they came to affirmations, and ſo to laws by little and little; but did not prevail. For when *Petrus Damiani* was ſent from *Rome* into *France* to perſuade the Prieſts to put away their wives, they defended themſelves with the Canon of the Council of *Tribur* in *Germany*, and with the words of S. *Paul*, *To avoid fornication, let every man have his wife*; to which the Legate knew not what to anſwer. And when in the year 1074 Pope *Gregory* the ſeventh ſent fierce letters to *Germany* about the ſame affair, the Arch-Biſhop of *Mentz*, to whoſe conduct the buſineſſe was committed, did publiſh the letters, but durſt not verify them; and neither by fair means nor by foul could cauſe the Prieſts to put away their wives. And in *England* till the year 1100 it was not prohibited to the Clergy to marry, ſaith *Henry* of *Huntingdon*: but then *Anſelme* endeavour'd to put the Popes letters in execution; and 25 yeares after the Cardinal of *Crema* was ſent over to the ſame purpoſe: but becauſe he was taken in bed with an harlot, he

de Offic. lib. 1. cap. ult.

1 Cor. 7. 2. Baron. A. D. 1059. & A. D. 1065.

apud Baron. A. D. 1075.

Matth. Paris Hiſt. Anglor. A. D. 1125.

he got nothing but ſhame and money, and ſo went away. But at laſt, after the attempts * & preſſures and tyranny and arts of an hundred and thirty years continuance (for it began in 970, and was not finiſhed till An. Dom. 1100, as † *Polydor Virgil* computes it) the Clergy was driven from their chaſt marriages, & they took themſelves to Concubines, whom they could change or multiply, and they found themſelves undiſturbed in that; and ſo they reſted, till God being long provok'd by their impureſt ſervices, awakened Chriſtian Princes and Prieſts into liberty and holineſſe and reformation. For amongſt the Canons which are called Apoſtolical, the ſixth ſeverely forbids Biſhops or Prieſts upon pretence of religion to put away their wives,] according to the words of Chriſt, *What God hath joyned, let no man put aſunder*; and the words of the Apoſtle, *Defraud not one another, unleſſe it be by conſent*, and *for a time*. And therefore the Church of *Rome*, which makes orders to diſſolve marriage, and commands Prieſts which before were married to depart from their wives, ſpeaks and does againſt the practice of the Ancient Churches, and againſt the decrees of Councils, and the Canons of the Apoſtles, and the expreſſe laws of Jeſus Chriſt. I end this with the ſaying of thoſe in *Mantuan*,

Tutius eſſe volunt quâ lex Divina ſinebat
Iſſe viâ, veterumque ſequi veſtigia Patrum,
Quorum vita fuit melior cum conjuge, quam nunc
Noſtra ſit excluſis thalamis & conjugis uſu.

The old primitives and holy Biſhops and Prieſts in the firſt ages liv'd better with their wives, then now-a-days they doe without them; and therefore it were better to tread in their footſteps, and to walk in that way to which we are pointed by the law of God.

* *O bone Calixte, nunc omnis clerus odit te. Nam olim Presbyteri ſolent uxoribus uti. Id prævertiſti quondam cum Papa fuiſti: Ergo tibi feſtum nunquam celebrabit honeſtum. Sic non nimis facunde, ſed vere nimis queſtus eſt olim non nemo.*

† Lib. 6. Hiſt. Angl. A. D. 970.

Vide 27. q. 1. cap. ut lex. & Clem. cap. literas de filiis Preſbyter. & Innocent. c. ut clericorum. de vita & honeſtate cleric.

24 One thing I am to adde which is of material conſideration. For every one obſerves in the ſtory of the Church, that even then when they did permit the Biſhops and Prieſts to live with their wives and to get children, yet the Church did even then forbid Biſhops or Prieſts to marry after their Ordination; and therefore many ſuppoſe that we might at leaſt comply ſo far with the Catholick Church, according as it is ſet down in the conſtitutions Apoſtolical attributed to S. *Clement*, *Non licere autem iis, ſi poſt ordinationem ſine uxore fuerint, ad nuptias tranſire: vel ſi uxores habuerint, cum aliis* "*conjungi*; but they muſt be content with her whom they had at the time of "their ordination; but after orders they muſt not marry: and *Paphnutius* in the *Nicene* Council, ſaid that they did not doe it, and left it as ſuppos'd that it ought not. Of this I doe not know any one that hath given a reaſon, or conſidered it apart to any purpoſe; and therefore it will not be uſeleſſe or unpleaſant if I give a ſhort account of it.

lib. 6. conſt. Apoſt. cap. 17.

25. 1. Therefore the Primitive Church choſe her Prieſts and Biſhops commonly of great age, of known vertue and holineſſe. They were deſigned to a publick and dangerous imployment, for ſome whole ages they were under perſecution, and the way of the croſſe was a great deletery to fleſh and bloud; and therefore they might the rather require it of them whom in theſe diſpoſitions they found fit to be taken into an imployment which would require a whole man, all his time and all his affections. Now if we conſider that the married Prieſts and Biſhops were commanded to retain their wives, and the unmarried had been tried to be of a known and experienc'd continence, they might with much reaſon and great advantages

require that they ſhould ſo remain; that is, they might ask their conſent, and might truſt their promiſe: for here was liberty, and but little danger. The Prieſts were few, and the unmarried much fewer, and their age commonly ſuch as was paſt danger, and the publick affairs of the Church requir'd it, and the men were willing; and then all was right.

26. 2. The Greek Church, and generally the Churches of the Eaſt, did by Cuſtome and tradition oblige their Prieſts to ſingle life, if in that ſtate they were ordain'd, becauſe they took care that if they could not contain they ſhould take a wife before their Orders, immediately if they pleas'd, and then enter into the Prieſthood; as appears frequently in the Greek laws and Canons, and particularly in the third Novel conſtitution of the Emperor *Leo* the ſixth. So that this was but a circumſtance of law, introduc'd for that which they apprehended to be decent: and *in matters of decency, opinion is the onely meaſure.* But if they might marry immediately before their ordination and live with their wives, then it is evident they did not believe that either the offices or the ſtate of marriage were againſt the offices and ſtate of Prieſthood. And this is affirm'd by *Cajetan*, *Nec ordo in quantum ordo, nec ordo in quantum ſacer, eſt impeditivus Matrimonii*, *Neither the order nor the appendant holineſſe*, that is, neither the office nor it's decency, *are impeded by holy marriages.*] And therefore he addes [*that it can never be prov'd by reaſon or by authority, that if a Prieſt does contract marriage, he does abſolutely ſin; becauſe the Prieſthood does not diſſolve the marriage, whether contracted after or before; ſtando tantum in iis quæ habemus à Chriſto & Apoſtolis*, that is, *if we keep our ſelves within the limits of Chriſts Commandements, and the doctrine Apoſtolical.*] And that's well enough; for if any Church or all Churches did otherwiſe, the Cuſtome was not good for many reaſons: it did diſhonour to marriage, it made it to be ſecretly ſuſpected of ſome uncleanneſſe, it gave too much countenance to heretics who diſparag'd it, it made a ſnare to thoſe who promiſed continence and found it difficult or impoſſible, and at laſt it came to an intolerable miſchief in the Church of *Rome*, it brought in divorces, which God hates; for they teach that Orders does diſſolve Marriage, and that which Chriſt onely permitted in the caſe of adultery, they command in the caſe of ordination.

in quodlib. contr. Lutherum.

27. 3. But becauſe there are ſome perſuaſions that will not be mov'd unleſſe they be ſhewn ſome precedents and practices of the Primitive Church, and will always ſuſpect it to be ill for the ſuperior Clergy to marry after ordination, unleſſe you can tell them that ſome good men did ſo before them, for they rely more upon example then upon rule; therefore I ſhall repreſent that although the ancient Canons and practices did generally injoyne their Clergy not to marry after Orders, (before orders they might) yet this thing did not prevail, but Deacons, Prieſts and Biſhops, good men and orderly, did after ordination uſe their liberty, as they found it neceſſary or expedient. This I have already remark'd in the caſe of Deacons, who are permitted by the Council of *Ancyra* to marry after ordination, if at their ordination they will not profeſſe continence. But Biſhops and Prieſts did ſo too: which is plainly gathered from thoſe words of S. *Athanaſius* to *Dracontius*, who refus'd to be made Biſhop becauſe he impertinently thought it was not ſo ſpiritual a ſtate as that of Monks, ſince he ſaw the Biſhops married men and full of ſecular affairs: S. *Athanaſius* anſwer'd him, that he might

Cap. 10.

might be Biſhop for all that, and keep on his way as he was before: for if that did hinder him, he let him know, that all Biſhops did not enter into the married eſtate, nor all Monks abſtain. *Multi quoque ex Epiſcopis Matrimonia non inierunt; Monachi contrà liberorum patres facti ſunt*, Many Biſhops did not contract marriages. Now if none did, his anſwer to *Dracontius* had been more full, and would not have been omitted; but therefore it is manifeſt that in his time ſome did. But *Caſſiodore* gives an inſtance in a Biſhop and Martyr that took a wife but a little before his Martyrdome, *Eupſychius* of *Cæſarea* in *Cappadocia. In illo tempore ferunt Martyrio vitam finiviſſe Eupſychium Cæſareenſem, ductâ nuper uxore, cum adhuc quaſi ſponſus eſſe videretur.* He was firſt a Prieſt in *Cæſarea*, but afterwards he was a Biſhop; and ſo he is called by S. *Athanaſius*, who mentions *Sylveſter* and *Protogenes* Biſhops of *Dacia*, and *Leontius* and *Eupſychius* Biſhops of *Cappadocia*, of which *Cæſarea* was the *Metropolis*. This *Eupſychius* having newly married a wife, while he was yet but as it were a bridegroom, gave up his life in Martyrdome for Chriſt. But this was no news in the Greek Church; For Pope *Stephen* having affirm'd that the Greek Prieſts, Deacons and Subdeacons are joyn'd in marriage, the gloſs ſaies, *Multi ex hac litera dixerunt quod Orientales poſſunt contrahere in ſacris Ordinibus*, *Many from theſe words have affirmed that the Eaſterlings can marry in holy Orders.* And it is alſo added by the gloſſe upon the ſame diſtinction, that *the Greeks in their ordinations doe promiſe continence neither explicitly nor tacitly:* and if that be true, there is no peradventure but very many of them marry after their conſecrations. But becauſe the Latin lawyers and Canoniſts are none of the beſt hiſtorians, we may better inform our ſelves in this particular from the Greeks themſelves: amongſt whom we find that for almoſt two hundred years together after the Synod in *Trullo*, the Greek Prieſts had after their Ordination two years time for probation whether they could bear the yoke of ſingle life, and if they could not, they had leave to marry. For although the Canons in *Trullo* had permitted them onely to ſtay with the wives they had married before Orders, and commanded that they ſhould take none after; yet the Canon prevail'd not, but the contrary cuſtome of two years probation laſted till the time of the Emperor *Leo* the ſixth, as appears in his third Novel conſtitution before cited. The words are theſe, *Conſuetudo quæ in præſenti obtinet, iis qui in Matrimonio conjungi in animo eſt concedit, ut antequam Uxorem duxerint, Sacerdotes fieri poſſint, & deinde biennium ad perficiendam voluntatem jungi Matrimonio volenti præſtituit.* They took their Orders firſt, and then had two years time to conſider whether they would marry or no. Now this being the cuſtome of the whole Greek Church, in which the Biſhops becauſe of the ordinations were engaged, it is evident it was not illegal or irregular, but an approved cuſtome of the Church; though before the end of two hundred years after the Synod in *Trullo* it was decreed againſt by an Imperial law. What became of it afterwards I have had no opportunity to inquire; but I find contrary relations by ſeveral perſons. That which I moſt rely upon is the relation of *Eraſmus*, who in his Apology againſt the *Pariſians* ſaies that in *Venice* he ſaw a Greek Prieſt marry a wife: and in the hiſtory of *Johannes Magnus* I find theſe words, *Wilhelmi Cardinalis prima cura & intentio fuit revocare Sueços & Gothos à ſchiſmate Græcorum in quod Presbyteri & Sacerdotes ductis publicè uxoribus conſenſiſſe videbantur*, Cardinal *William* endeavoured to recover the *Suedes* and *Goths* from the ſchiſm of the Greeks, to which they ſeem'd to adhere when their Prieſts and Biſhops did marry

Tripart. hiſt. lib. 6. cap. 14.

Orat. contr. Arianos.

Diſt. 31. C. aliter.

wives

wives publicly. By which it appears the Greeks did ſo, ſince the others by ſo doing complied with them. And the Metropolitan of *Ruſſia* in *Sigiſmundus Baro* cals it a great error and ſin in the Roman Church, that they reject the Prieſts who marry wives according to the laws. But the matter is not great; for the Church might doe what they ſaw cauſe for.

28. But in the Latine Church it will be harder to find examples of Prieſts marrying after Orders. Not but that there were very many that did; but that they durſt not be known to doe it. But yet ſome notices we have even of this alſo. For Pope *Innocentius* the ſecond obſerv'd that every where Biſhops and Prieſts, and the Religious profeſſed did marry wives after they had purpos'd the contrary, and by a Decretal reſtrains it. And *Ivo* Biſhop of *Chartres* tels of a Prelate that had two harlots; but (as it ſhould ſeem) being weary of that life, he prepar'd Matrimonial Tables for a third: and he tels alſo of a Canon in the Church at *Paris* who did actually contract marriage, and the Biſhop held it rate and firm, that it was good and could not be diſſolv'd: and we find that *Æneas Sylvius* being conſulted by a Prieſt that was in the ſnare, he advis'd him actually to take a wife and marry. For what ſhould hinder? The law of the Church was an evil law, made by an authority violent and uſurp'd, inſufficient as to that charge, it was not a law of God, it was againſt the rights and againſt the neceſſities of nature, it was unnatural and unreaſonable, it was not for edification of the Church, it was no advantage to ſpiritual life: it is a law that is therefore againſt public honeſty becauſe it did openly and ſecretly introduce diſhoneſty; it had nothing of the requiſites of a good law, it had no conſideration of humane frailty nor of humane comforts, it was neither neceſſary nor profitable nor innocent, neither fitted to time nor place nor perſon; it was not accepted by them that could not bear it, it was complain'd of by them that could; it was never admitted in the *Eaſt*, it was fought againſt and declaim'd and rail'd at in the *Weſt*, and at laſt is laid aſide in the Churches (eſpecially) of the *North*, as the moſt intolerable and moſt unreaſonable tyranny in the world; for it was not to be endur'd, that upon the pretence of an unſeaſonable perfection, ſo much impurity ſhould be brought into the Church, and ſo many ſouls thruſt down to hell. And therefore when the Latine Prieſts ſaw themſelves ſo horribly inſnar'd, they did ſecretly corrode the net, which openly they durſt not tear in pieces. And the caſe is clear. *Dominicus à Soto* obſerving that the Church did not for a long time permit Prieſts to marry after Orders, argues thus. The Church admitted married men to be Prieſts, but did not admit Prieſts to be married men, meaning afterwards: which thing (ſaith he) relies upon no other reaſon but this, Becauſe they ſuppos'd the uſe of the marriage-bed to be inconſiſtent with the office and dignity of a Prieſt or Biſhop. For if they who were Biſhops and Prieſts might uſe marriage, what hinders them but that they might after Orders enter upon marriage?] That's his argument. To which I reply, That it is true, the Church, which was *æmula continentiæ, deſirous to promote continence*, did ſet it forwards where ſhe thought ſhe might with ſafety, and therefore injoyn'd her Prieſts, which anciently could not be ordain'd till they were almoſt 40. years of age, to remain in that ſtate in which their ordination found them: though even this was a ſnare alſo, and could not be obſerved, and was not (as I have proved) yet this was not becauſe they diſapproved the conjugal ſociety; for beſides

27. q. 1. cap. ut lex.

Epiſt. 200.

Epiſt. 201.

Epiſt. 321. ad Johan. Fontem.

Lib. 7. de Juſt. & jure q. 6. art. 2.

Juſtinian. Nov. 123. cap. 13.

beſides that the Scripture gives it a title of honour, and calls it purity; it was alſo declar'd to be chaſtity in the *Nicene* Council, who did therefore leave married Prieſts & Biſhops to the uſe of it: and they who ſpake againſt the uſe of marriage in Prieſts and refus'd to pray with married Prieſts, were anathematiz'd in the Council of *Gangra*. And it is evident that thoſe who were admitted in the ſtate of marriage to holy Orders did παιδοποιεῖν beget children. S. *Gregory* the Divine tels it of his Father, *Gregory Nazianzen*,

Πατὴρ σε λίσεθ', υἱέων ὦ φίλτατε,
Πατὴρ ὁ πρεσβὺς τὸν νέον·
Οὔπω τοσοῦτον ἐκμεμέτρηκας βίον
Ὅσῳ δι' ἥλθε θυσιῶν ἐμοὶ χρόνος.

Carm. de ſua vita.

That he ſaid he had been in holy Orders longer then the age of his ſon, and yet he had alſo a yonger ſon then this *Gregory*; for *Cæſarius* was his yonger brother. *Baronius* contends fiercely againſt this inſtance to convince the ſon of a Poetical fiction, or an hyperbole, or ſome other civil word for a lie. But let it be as it was; yet the thing it ſelf was infinitely evident: for as *Fabianus* ſaid, Biſhops and Prieſts did for a thouſand years together in the Church live with their wives, *nullâ lege prohibente*, no law forbidding it, that is, no law in force; and the Council of *C P.* decreed, *Si quis præſumpſerit contra Apoſtolicos Canones aliquos Presbyterorum & Diaconorum privare à contactu & communione legalis uxoris ſuæ, deponatur.* It is againſt the Canons Apoſtolical to forbid a Prieſt or Deacon the contact and ſociety of his lawful wife; and he that ſhall preſume to doe it, let him be depos'd. Now then the argument of *Dominicus à Soto* is very good. If Biſhops and Prieſts might uſe marriage, what hinders them from contracting marriage? There is no undecency in the thing, therefore no inconſiſtency with *Orders*. Since therefore it is certain that the married Biſhops and Prieſts not onely in the Greek Church, but even in the Latine, in *Germany*, in *France*, in *England*, where they kept their wives in deſpite of the Pope for a long time, did retain the liberties and ſocieties of marriage; there can be nothing in the thing that can make it unfit for them to contract marriages, to whom it is fit to uſe them.

Habetur 1. Diſt. 3. c. Quoniam.

29. There is but one thing more which I think fit to be conſidered in this affaire, and that is, that there is a pretence of a vow of Continence annexed to holy Orders; and that therefore it is not lawful for Biſhops and Prieſts to marry, when they have vowed the contrary. * This indeed concerns them who have made ſuch a vow; but not them that have not. But who made it neceſſary that perſons to be ordain'd ſhould make ſuch a vow? even they onely that made laws againſt the Clergies marriage; and becauſe they durſt not truſt the laws which they made, they took order that men ſhould become a law unto themſelves, that they might be inſnar'd to purpoſe. This vow was onely introduc'd in the Latine Church, and injoyn'd to all her Clergy. Injoyn'd, I ſay, againſt the nature of a vow, which if it be not voluntary, is no vow; which includes deſire in its very name and nature. But Orders doe not include this vow in their nature, and it were intolerable that men ſhould be forc'd from their wives againſt both their wills: that's a *perſecution*, not an *ordination*, and it is ſo far from being for the advantage of the Church, that it is expreſsly againſt a Commandement of God, that what he hath joyn'd, any man ſhould ſeparate: and yet we find many in the primitive Churches by force made Prieſts and Biſhops againſt their wills.

Alexand. 3. cap. ſanè de Cler. Conjug. Vide Cajetan. opuſc. tom. 1. tract. 27.

S. *Auguſtin*

S. *Auguſtin* was taken at *Tagaſta* and made Prieſt whether he would or no, but he was not married; but another good man was. *Pinianus*, the husband of *Melania*, was ordain'd againſt his will and the tears of his wife. *Paulinianus*, the brother of S. *Hierom*, was firſt made Deacon by *Epiphanius*, and then made Prieſt, and they were forc'd to ſtop his mouth that he might not deny it. And can it be thought that theſe men did in this violence make a vow of ſingle life? or can theſe be fitting circumſtances for a vow? But I ſhall not inſiſt upon the particulars of this: becauſe if they ſhould make ſuch a vow, yet if they found it to be a ſnare, and impoſſible to be kept, they had not onely leave, but a neceſſity to break it. If the vow was conſtrain'd and prov'd impoſſible, it was the leſs ſin in the taking, and none in the breach of it. But if it was voluntary, it was raſh, unleſs they had been ſure the thing had been in their power; and then if it proves not to be ſo, the fault is not in the breach but in the undertaking. *Quod ſi perſeverare*

Lib. 1. ep. 11. *nolunt, vel non poſſunt, melius eſt ut nubant, quam ut in ignem deliciis ſuis cadant; certè nullum fratribus aut ſororibus ſcandalum faciant.* So S. *Cyprian* adviſes the profeſſed Virgins. *If they will not, or cannot perſevere, it is better that they marry, then fall into the fire and into burning; onely let them give no*

Hæreſ. 60, & Hæreſ. 61. *ſcandal*, meaning by their unchaſt lives. And *Epiphanius* expreſsly, *Melius eſt lapſum à curſu palam ſibi uxorem accipere ſecundum leges.* If a man have undertaken a load too heavy, and fals with it, it is better to lay it aſide, and openly to take a wife. The ſame counſel is given by S. *Hierom*, by

Epiſt. ad Demetriad. S. *Auſtin*, and by *Alfonſus Virveſius* a Divine of the Roman Church. To

Lib. de Bono conjugal. & habetur diſt. 27. c. quidam. which I ſhall adde nothing of my own but this, That if the holy *vow of marriage*, appointed and confirm'd and accepted by God, may yet be diſpens'd with and annull'd, much more may the vow of virginity and ſingle life. If the adultery of the wife makes the husbands vow and promiſe to be void; much more may his own adultery or fornication make void his vow of ſingle life. If for the diſhonour of his houſe, and the introduction of baſtards into his temporal poſſeſſions, he is abſolved from his vows of wedlock which God certainly did approve and appoint; much more may his vow be null when there is danger or ruine to his ſoul. A man may lawfully live with an adulterous wife; and yet he may chuſe, and his vow does not oblige him: but he cannot ſafely live with burnings, he cannot lawfully abide in fornication and uncleanneſs. For *Who can dwell with the everlaſting burning?*

It were not unſeaſonable to conſider the Eccleſiaſtical law againſt the ſecond marriages of Prieſts, or the ordaining them who have married the ſecond time. But this alſo relying upon the humor of men, who will be more pure then God, and more righteous then the law of Chriſt, and more wiſe then the Apoſtle, it may be determin'd by the ſame conſiderations. The law is a ſnare, * it is in an incompetent matter, * it is a reſtraint of that liberty which Chriſt hath left, * it cannot be fitted to time and place, and yet remain a law; becauſe there are ſo many neceſſities to be ſerved, and ſo many favourable caſes to be conſider'd, that the exceptions may be more then the Rule. * It may alſo be conſidered that to make ſecond marriages a cauſe of irregularity, or incapacity of receiving holy Orders, is nothing but a ſecret accuſation and an open reproach to marriage; * that it

De Monogam. was not of uſe and avail in the primitive Church, *Tertullian* witneſſing, *apud vos digami ubique præſident*, in the Catholic Church Biſhops twice married doe every where govern; that *Cauterius* a Spaniſh Biſhop was twice married;

married; that S. *Hierom* affirms that all the world was full of such ordinations, not only of Deacons and Priests, but of Bishops; and that he could reckon so many as would excell the number of the Bishops conven'd in the Council of *Ariminum*; * that S. *Augustin* had fornicated with two several women, and yet he was made Priest and Bishop for all that; * and to deny that to holy marriages which is not denied to unholy fornications, will be a doctrine unfit for the honour of Christian [a] schools; * that the second marriage is as holy as the first; * that it may be as necessary * and as usefull; * that it is always as lawfull; * that the Canon of the Apostle, that *a Bishop should be the husband of one wife*, is intended against plurality of wives at once, and marrying after divorces, both which were usual amongst the Jews and Greeks and Romans, and could not at first be taken away from the new-converted Christians; * that it was so expounded by S. *Chrysostom*, *Theodoret*, [b] S. *Hierom*, and divers others, but especially by the Greek Fathers; * that not onely the first marriages are blessed by God, but the second and the third, as S. *Austin* observes; * that S. *Clemens* of *Alexandria* affirmed, that δίγαμία μὴ ἐπαγγελίαν παρανόμως διὰ τὴν συναφειαν, ἀλλὰ διὰ τὸ ψεῦδος, *Digamy after a vow to the contrary is an irregularity, not for the contact and conjunction, but for the lye*; * that the Church of *Rome* does without scruple frequently ordain them that have been twice married, if they will pay the price appointed in the Chancery tax, as is witnessed by one that knew very well; * that if the Apostle had forbidden it by a Canon, yet that Canon did no more oblige the descending ages of the Church then the other Canons which we see broken in every Church, according to their reason or their liberty; * that in the Primitive Church they were not very sollicitous about the affaires of marriage, because they suppos'd the end of all things was at hand: *Crescite & multiplicamini evacuavit extremitas temporis*; * that it was a blot in the face of the Primitive Church that they would not blesse second marriages; * that it was most rationally and elegantly complained of by S. *Bernard*; * that second marriages are not a signe of incontinence but the cure, * or if they were a signe of an incontinent body, they are a sure signe of a continent mind, that will at no hand admit any uncleanness; * that a great liberty permitted is infinitely to be preferr'd before a little prevarication of a Divine law, * and therefore that second marriages are to be permitted to the Clergy, rather then evil thoughts, or the circles of an inward fire; * that the prohibition of the ordination of persons after the second marriages did rely upon the opinions of holiness that was in the Ecclesiastical order above the lay purity, and the unholiness of marriage in respect of single life; * that in whatsoever sense the former can be true, yet the latter is a branch of *Montanisme*, and a product of the heresy of *Tatianus*; * that *Theodoret* did ordain *Irenæus* that was twice married; * that he defends the fact by the consent and suffrages of the Bishops of *Phœnicia*, * & saies that he insisted in the footsteps of his Ancestors, * & produces for his precedent, *Alexander* of *Constantinople*, *Acacius* of *Beræa*, and *Praylus* of *Cæsarea*, who ordained *Domnus* after his second marriage; * that the chief of the Diocese of *Pontus* did so, * and all the Bishops of *Palestine*; * that they accounted it holy according to the opinion and doctrine of their Nation, * for so we read in *Maimonides*, "Although a man have fulfilled the precept concerning the "multiplication of mankind, yet nevertheless it is prescribed in the sayings "of the Scribes, that no man should cease from the multiplication of his kind,

[a] *Glossa in Dist. 34. can. Fraternitas hanc rem exhorruit. Ecce casus, ubi plus juris habet luxuria quam castitas: quia castus repelleretur, si contraxisset cum secunda; sed fornicator non. Videtidem* S. Augustin. *Epist. 64.*

Epist. ad Ocean.

[b] in locum Apost. 1 Tim. 3. ad Ocean. tom. 2.

Lib. 3. cap. 2.

Spalat. l. 2. cap. 10. n. 75.

Tertull. ubi supra.

Serm. 66. in Cantica.

Halach Ishock. cap. 15.

" ſo long as he can well continue it; for whoſoever ſhall adde a ſoul to *Iſrael*. " is like him that buildeth up the world. And it is moreover in the ſayings " of the wiſe men, that a man ſhould not keep a houſe without a wife, leſt " he be provok'd by luſt.* It may alſo be conſidered that he that burns had better marry, though he have been already married, and though he be a Biſhop; * that the virgin or widow eſtate is no where commanded, but that in ſome caſes marriage is, as in that of burning; * that in Scripture no chaſtity or continence is requir'd of a Biſhop but the Matrimonial; * that *Abraham* the Father of the faithfull was married again after the death of *Sarah*; * that S. *Joſeph* the ſuppoſed Father of our B. Lord was by the Ancients ſaid to be twice married; * and laſtly, that it is confeſſed that the forbidding ſecond marriages to the Clergy, and refuſing to ordain ſuch as have been twice married, is neither of the law of nature, nor any article of faith, nor any neceſſity of the Sacrament; it is onely a conſtitution of the Church, which as the Pope binds on, ſo he may take off as he pleaſe, as is affirmed by [a] *Aquinas*, [b] *Durandus*, [c] *Gabriel Vaſquez* and others: and therefore this law alſo ought to be cancell'd; but if it be not annull'd by expreſſe revocation, it is unjuſt, and unreaſonable, and unneceſſary, and a ſnare to conſciences, and is not the circumſtance of a thing commanded, but of that which ought to be left at liberty, and therefore is no meaſure or proper band of conſcience; but to us it is an obligation neither in conſcience nor in law. But

[a] Quodl. 4. Art. 13.
[b] in Sent. 4. diſt. 27. q. 4.
[c] in 3. part. tom. 3. diſp. 24. cap. 5.

Mantuan.

Hæc ideo volui noſtris intexere chartis,
Ut quoties Patres.... coeunt
Sint memores, magno ad leges opus eſſe ferendas
Ingenio, multis oculis, examine recto.

I have given theſe inſtances not onely to fix the Conſcience in theſe great inquiries, but by theſe to explicate the meaſures of the Rule.

§. V.

Of Eccleſiaſtical Laws of Faith, or Articles of confeſſion.

Rule XXI.

The Catholic Church is a witneſſe of Faith, and a record of all neceſſary truths; but not the Miſtreſſe and Ruler of our Creed; that is, cannot make any laws of Faith.

1. IN our inquiries of faith we doe not run to the Catholic Church deſiring her to judge our queſtions; for ſhe can never meet together; and ſhe is too great a body to doe ſingle acts and make particular ſentences: but to her we run for conduct, by inquiring what ſhe believes, what ſhe hath receiv'd from Chriſt and his Apoſtles. So that the Authority of the Catholic Church is reſolved into Catholic tradition. Whatſoever can be made to appear to have been by the Apoſtles taught, & conſigned to the Church, that is a law of faith. But of this I have already given accounts*. The Catholic Church, taking in the Apoſtolical, that is, the Church of all ages, is a witneſſe

* lib. 2. Chap. 3. Rule 14.

witneſſe beyond exception. For if ſhe have the Spirit of God, if ſhe love truth, and if ſhe doe not conſent to deceive her ſelf, ſhe cannot be deceiv'd in giving teſtimony concerning matter of fact and actual tradition: or if ſhe could, yet we are excuſed in following that teſtimony, becauſe we have no better, we have no other. Better then our beſt, and better then all we have, we cannot be oblig'd to uſe: but therefore we have the juſtice and the goodneſſe, our own neceſſity and the veracity of God for our ſecurity, that this is a ſure way for us to walk in. But then when this is reduc'd to practice in matters of belief, it will come to this onely, That ſhe bears witneſſe to the Scriptures, that they are the word of God; but beyond what is contain'd in Scripture, ſhe hath no article of faith.

2. The conſequent of this which I have largely prov'd and explicated in the place above cited, is, that all her Sermons and all her explications of doctrines muſt be by that meaſure. If it be agreeable to Scripture, it is that which ſhe hath received: but if ſhe hath not received it, ſhe cannot make a doctrine, nor deliver a propoſition with authority, nor oblige the conſcience.

3. But this Rule if it be underſtood of the Catholic Church of this or any one preſent age, will not ſignify ſo much: for unleſſe the Tradition be delivered in a conſtant ſucceſſion from the Apoſtles, the Church is not a certain witneſſe, but makes her ſelf a Judge of truth; which ſhe can never doe, but by relating to the Scriptures, by ſhewing there it is, in the Code which ſhe hath received. But when any doubt does ariſe concerning any matter of belief, the Catholic Church hath no ſolemn Court of judicature or place of reſort where a ſingle perſon may goe for determination. And if a queſtion be between Church and Church, as between *Rome* and *England*, the queſtion is, which is the Catholic Church; for indeed neither of them is: and there is no ſuch thing then as a Catholic Church to determine the queſtion: as when the head and the belly, the mouth and the armes fell out, the whole body could not be judge of the controverſy; but if they had had a rule, thither they might goe to be guided. And if it be asked, who ſhall expound the rule, there is no other anſwer to be given, but to deſire men to be good and humble, to pray to God, and without partiality to deſire truth; and then every man will be able to anſwer his own queſtion. For if the Rule be hard, it is hard to them that are not willing and ſoft and compliant; but not to the gentle and the humble, to them that follow God in ſimplicity and whitherſoever he will lead them.

4. But it is to be conſidered that the Church is a Net that hath in it fiſhes good and bad, it is a field of corn and tares; and but that the Apoſtles were guided by an infallible ſpirit, there could have been no certainty: but then after them there was no more to be look'd for; what they left we were to uſe, but to look for no more. For the Catholic Church never was ſince the Apoſtles time without error. By Catholic Church, I doe not mean the right believing part of the Church, (for in queſtions of faith the diſpute was which was the right believing part) but I mean all that profeſſe the faith of Chriſt, who when they are divided will never allow the oppoſite party to be their Judge: and therefore it cannot be ſuppos'd that God ſhould appoint one to be the Judge, who muſt always be ſuppos'd a party, and will never be accepted by the other, unleſſe he had given infallibility to that one part, and we had all known it. To the Apoſtles he did, and

they were the fountains of tradition: but when they were gone, the onely way that was left was to ſee what they left, and to that every part was to conform; but neither part was Judge, except onely for themſelves: and in this every part ought to be truſted, becauſe they onely had the biggeſt concern to take care that they be not deceived. No man or company of men was charged with them; every Government was charg'd with it's own care and conduct.

5. But I ſhall not inſiſt upon this, becauſe it can be of no uſe in the conduct of conſcience. Becauſe if ever there be a diſpute in the Church, there is no Catholic Church to which we can goe: and if we call that the Catholic Church which is the greater part, that may deceive us; for in the days of *Elias* almoſt all *Iſrael* had corrupted himſelf, and in the time of the *Arrians* almoſt all the world was *Arrian*; and at this day a very great part of the Catholic Church is ſtain'd with the horrible errors and follies of Popery: and beſides our notices are ſo little and narrow of the belief of Chriſtendome, our entercourſes ſo ſmall, our relations ſo falſe, our informations ſo partial, that it is not poſſible for us to know what is the belief of the major part. It is not known at this day by the Doctors of the *Roman* Church what is the practice of the Greek Churches in the Marriage of their Prieſts, nor what is their doctrine of Purgatory, nor of the proceſſion of the holy Ghoſt, as appears in their diſputes & contrary narratives of theſe particulars. We cannot tell in *England* at this day whether the *Lutheran* Churches have right Ordinations and perfect ſucceſſion of Biſhops in their Churches. I have endeavoured very much to inform my ſelf in the particular, and am not yet arrived to any certain notice of it. This therefore, to appeal to the ſenſe of the major part of the Church in a queſtion, will ſignify nothing at all as to our conſcience.

6. Eſpecially if to this we adde, that the Churches have got a trick of Empire and impoſing their ſometimes falſe, and always unneceſſary articles upon all of their communion; and then the faith of the Church will depend upon the opinion of the chief and principals: and then their belief will be like a rumour ſpread from a few mouths into the ears of millions, who, though they all tell the ſame ſtory, yet are no more credible for their multitude then the firſt reporters were for their authority. Nay in moſt places men dare not ſpeak what they think, and dare not believe what they find dangerous, and dare not inquire into what they dare not disbelieve; ſo that if you had been at *Trent* and ask'd the Fathers, it would have ſignified nothing: for whatever their belief was, they were born down by the Congregations, and the Congregations by the Legates, and the Legates by the Pope; and that's the Catholic Church.

7. It remains therefore that we are from the Catholic Church to expect no other determination of our queſtions, but by conveying to us notice of the doctrines Apoſtolical. And this is often and largely diſcours'd and taught by [a] S. *Irenæus*, by S. *Clement* [b] in *Euſebius*, by [c] *Tertullian*, by [d] *Origen*, [e] S. *Cyprian*, [f] S. *Athanaſius*, [g] S. *Baſil*, [h] *Epiphanius*, [i] S. *Hierom*, [k] S. *Auſtin*, and [l] *Vincentius Lirinenſis*: what they could derive from the fountains Apoſtolical by a clear chanel and conduit, that was firſt, and that was true, and

[a] Lib. 3. cap. 40. & lib. 5. c. 20. lib. 4. cap. 63, & 43. [b] Lib. 3. cap. 12. [c] de Præſcript. & contr. Marcion. l. 4. [d] In procem. l. 1. περὶ ἀρχ. [e] Epiſt. ad Pompei. [f] Ad Serap. de Spir. S. [g] Serm. cont. Sab. & Arrium. [h] Hæreſ. 31. [i] Adv. Lucifer. [k] Contr. Fauſt. Manich. lib. 11. cap. 2. [l] Cap. antepenult.

and that was in the rule, and that was the meaſure of faith. And therefore when in the Council of *Epheſus* the Epiſtle of *Capreolus* the Biſhop of *Carthage* was read for the eſtabliſhment of antiquity, and the reproof of the new doctrines, all the Biſhops cried out, *Hæ omnium voces ſunt, hæc omnes dicimus, hoc omnium votum eſt.* This was the voice of them all, they all ſaid the ſame thing: and what was that which they all affirm'd, *niſi ut quod erat antiquitus traditum, teneretur? quod adinventum nuper, explo-deretur?* ſaith *Vincentius*, *that what is ancient and at firſt deliver'd, that ſhould be held; that which is lately invented ſhould be exploded.* For the Church cannot determine queſtions by way of judgment and authority, but by way of atteſtation, and as a witneſſe onely of the doctrine Apoſtolical. There is nothing elſe neceſſary, and nothing elſe is practicable.

RULE XXII.

The Decrees of General Councils are of great uſe in the Conduct of Conſcience, but not the proper meaſure, or laſt determination of matters of belief.

1. BEfore * conſidered *Councils* as they had acquir'd an accidental authority by the veneration of their age, and their advantage of having been held in the elder ages of the Church: Now I conſider them in their own proper and immediate pretence. I then conſider'd them in order to Government, but now in order to faith: for Councils Eccleſiaſtical have pretended to a power over the conſcience, ſo as to require both the obedience of the will, and the obedience of the underſtanding. Concerning which I am to ſay, that Nothing can oblige to Divine faith but a Divine authority: to which Councils can no more pretend for being General, then for being Provincial; and to which great aſſemblies have no other title or pretence of promiſe then the private congregations of the faithfull, who though but two or three, yet ſhall be aſſiſted by the Divine preſence. But General Councils are ſo wholly of humane inſtitution, that though by the dictate of right reaſon and natural wiſedome they are to be conven'd; yet to make them a formal judicatory, and to give them a legiſlative power or a dominion and magiſtery in faith, there are ſo many conditions requir'd both to their indiction and convention, to their conſtitution and integrity, to their conduct and proceeding, to their concluſion and determination, that men are not to this day agreed about any one of them; and therefore they cannot be a legal judicatory obliging any but them that doe conſent, and ſo oblige themſelves. * Rule 14.

2. But yet they are of great uſe for inquiry and conſultation: and therefore *Euſebius* ſpeaking of *Conſtantine* the Emperour, ſays of him, *Concilium generale tanquam Dei exercitum inſtruens, in unum locum coegit.* A General Council is God's army; and being a repreſentative of the Church in the ſame degree as it is General and rightly called, and rightly order'd, and rightly proceeding, it partakes of the Churches appellation; it is *acies* lib. 3. de vita Conſtant. c. 6.

ordinata, terrible as an army with banners. Let them be as many as it happens, *in the multitude of Counſellors there is ſafety*; that is, they are more likely to underſtand truth then ſingle perſons, for they are not ſo ſoon prejudic'd and corrupted: as a river is harder to be poyſon'd or to be turn'd aſide, then a pail of water or a diſh-full; but if it be, it is ſo much the worſe. But if they proceed rightly they are excellent helps, and ſome of them have done great good to the Church, and ſome have done great miſchief; and which have, and which have not, we are to inquire by other inſtruments: ſo that we are to judge concerning them, and then they are to be guides to us; that is, we conſider which are fitteſt to be followed, of which we judge by General and extrinſic conſiderations, and then we follow them in the particular inquiry; that is, we follow them becauſe we think they followed the Apoſtles, and were faithfull witneſſes of their doctrine. Which indeed is an excellent benefit which we may receive by the firſt and moſt Ancient Councils, which were near the fountains: they could trace all the new pretences up to their original, they diſcuſſed the doctrines in their provinces, they heard what any one could ſay, they carried it to the General aſſembly, they compared it with the tradition and doctrine of other Churches, and all together were able very well to tell how the Apoſtles had taught the Churches of their foundation. And becauſe the four firſt General Councils did, or are ſuppos'd to have done ſo, therefore they have acquir'd a great, but an accidental authority, and are accepted by the moſt part of Chriſtendome, and made into humane laws of faith, and the meaſures of hereſy. Such uſe as this the conſcience can make of the Ancient Councils; but beyond this or ſome ſuch good uſe as this the conſcience is at no hand oblig'd to follow their determinations as the ſentence of a competent judge, but as of an authentick witneſſe, when it can appear or be credible that it can be ſo, and is ſo. And this was the very thing that S. *Athanaſius* affirm'd of the *Nicene* Council, *Siquidem Nicæna Synodus non temere habita eſt, ut quæ habeat graviſſimos uſus & legitimam rationem.* The *Nicene* Synod was of great uſe. They met about the queſtion of Eaſter and the *Arian* hereſy. *Sed in negotio Paſchatis non abhorruerunt ab iſtiuſmodi appendice. Ibi enim placuit ut adderetur, Viſum eſt ut omnes obtemperarent. De Fide verò non ſcripſerunt, Viſum eſt; ſed ad iſtum modum, Credit Catholica Eccleſia: & ſtatim confeſſio ipſa credendi adjuncta eſt, ut oſtenderent eam non eſſe novam ſententiam, ſed Apoſtolicam, & quæ ipſi ſcripſiſſent non eſſe ſua inventa, ſed Apoſtolorum documenta. But in the matter of Eaſter,* becauſe it was a ritual, and the circumſtance of time and the unity of order, *they decreed, that every one ſhould obey. But in the matter of Faith they did not write ſo, that they appointed every one to obey, but in this manner, The Catholick Church believes: and then they adjoyn'd the confeſſion of Faith, to ſhew that the doctrine was not new, but that it was Apoſtolical, it was that which they wrote, but nothing of a later birth.* To any other purpoſe neither the Council of *Nice* nor the Council of *Ariminum* is of any uſe or authority: ſave onely it is the ſentence of ſo many men, and is to be received according to the credibility of the men, or the reaſonableneſſe of the article.

de Synod.

3. But then let it be conſidered, to what the authority of a Council will amount according to the ſentence of moſt men. The Doctors of the Church of *Rome* (a few onely excepted) ſay that a Council, if it be not confirmed by the Pope, hath no authority. Upon this account, if they ſay true, every Council is fallible, and therefore no rule or guide of faith: for unleſſe

unleſſe it can be deceiv'd, why ſhould it be ſubmitted to the judgment of the Pope? and if it can be deceived, it cannot bind, becauſe it cannot ſecure the conſcience. But the others that are not of the *Roman* party ſay, a Council is then not deceiv'd, when it delivers the doctrine of Chriſt and his Apoſtles, and ſpeaks conſonantly to Scriptures: and if a ſingle Doctor does ſo, he is to be believ'd. What then? wheres the difference? This onely is it, That it is more likely a Council ſhall find out the truth, and report the tradition; and if we be to chuſe our faith by gueſſe and probability, a Council is better then a ſingle Doctor, by ſo much as there are many more then one Doctor in it. But this will onely ſerve the turn till men are willing or at leiſure to inquire: this onely excepted; becauſe few men can judge, and moſt men are rul'd by others, all ſuch perſons can have nothing better to rule and determine them then a General Council: but then it is an argument of reaſon, and not of authority; it is not becauſe they are bound, but becauſe it is moſt reaſonable in their circumſtances.

4. I ſhould here have conſidered of what authority the writings of the Fathers are to the interpretation of Scripture and the conduct of conſcience: but becauſe I find onely the ſame uſe of them as of other learned men in all ages of the Church, ſave onely in thoſe things where they are witneſſes of the Apoſtolical doctrines, to which they beſt can give teſtimony who are the moſt Ancient, and becauſe themſelves diſclaim any authority in matters of faith, and call to be tried by the word of God; I had rather this thing ſhould be read in others then in my ſelf: becauſe it is matter of envy and reproach to tell why they cannot be relied upon; and to adde more reputation to that authority which they have acquir'd by many intervening cauſes, by reaſon, and by unreaſonableneſſe, would be matter of danger, and ſometimes the cauſes of error, and very often of a deceitfull confidence. But who pleaſe may ſee this uncertainly diſputed, and never concluded to any certainty, by * *Cajetan* on one ſide, and *Melchior Canus* on the other. He may alſo conſider the ſaying of the † Biſhop of *Bitonto*, that he preferr'd the ſentence of one Pope before a thouſand *Hieroms*, and a thouſand *Auguſtines* & *Gregories*; and that every ſide declines their arbitration when they ſpeak againſt them: by which it appears that no ſide ſuppoſes themſelves to be bound in conſcience to follow them.

S. Auguſt. Epiſt. 48. & Epiſt. 111. Vide Gratian. diſt. 9. Cyril. Hier. Catech. 4. S. Hieron. Ep. 19. & Ep. 76.

* Præfat. in comment. de Locis com. l. 7. c. 3. concl. 3, & 4.

† Concion. in Epiſt. ad Rom. cap. 14. pag. 606.

5. But the beſt uſe of them is that which the Church of *England* hath deſcrib'd in one of her ancient Canons, that her Biſhops and Prieſts ſhould teach nothing *niſi quod ex doctrina Veteris & Novi Teſtamenti veteres Patres & Eccleſiæ Epiſcopi collegerint, but what the Fathers & ancient Biſhops of the Church have gathered out of the doctrine of the Old and New Teſtament*: which Canon gives a very good anſwer to this inquiry if we ſhould enter into it. For it declares that the Fathers are ſo far to be followed as they follow Scripture, and that their writings are of great uſe for the reproof of new doctrines: and certainly if Preachers were confin'd to this meaſure, poſſibly we might miſſe ſome truths which now it may be we find; but it is certain we ſhould eſcape very many errors. For the reſt, I refer my reader to the Archbp. of *Spalato de rep. Eccleſ. lib. 7. c. 6.* to *Rivet's Prolegomena* to his *Criticus Sacer*, to *Daniel Toſſanus* his *Synopſis de legendis Patribus*, to *Gregory de Valentia* his *analyſis fidei*, to Biſhop *Morton* his Catholick Apology, and to D *Whittaker de Script. authoritate.* In this whole affair the conſcience is at liberty, and therefore I am here to inquire no further.

Rule XXIII.

Subſcription to articles and formes of confeſſion in any particular Church, is wholly of Political conſideration.

1. When forms of confeſſion are made, & public articles eſtabliſhed, it is of great concernment not onely to the reputation of the Government, but to the unity and peace of that Chriſtian community, that they be not publicly oppos'd. To this purpoſe we find ſo many ſubſcriptions to the Decrees of Councils, by Princes and Prelates and Prieſts and Deacons, by Prefects of Cities and Governours of Countries; it was an inſtrument of unity and peace, a declaration of their conſent, and at no hand to be reprov'd, unleſſe it be in a falſe article, or with tyranny to conſciences, or to maintain a faction. But that which the Government looks after is, that no new Religions be introduc'd to the public diſturbance; of which the *Romans* were ſo impatient, that they put to death a Noble Lady, *Pomponia Græcina, utpote novæ cujuſdam religionis ream*, ſaith *Tacitus, as being guilty of a new religion.* Now to prevent this, Subſcription is invented, that is, an atteſtation of our conſent; which if it be requir'd by the ſupreme authority, it may be exacted in order to peace and unity: and *Tacitus* tells that *Apudius Murena* was degraded from the dignity of a Senator becauſe he refus'd to ſubſcribe to the laws of *Auguſtus.* This is the ſame caſe, for ſubſcription ſerves no other end but that which is neceſſary in Government. We find in *Polydore Virgil* that the Ancient Kings of *England* at their inauguration, *Silicem tenebant juraturi per Jovem, ſe religionem & ritus Patrios retenturos, hæc verba loquentes, Si ſciens fallo, tunc me Dieſpiter ſalvâ urbe arcéque bonis omnibus ejiciat; They ſwore by Jupiter that they would keep the religion and their Country rites, and curs'd themſelves if they did not.* This was more then Eccleſiaſtical ſubſcription: for that bound them to it for ever; this onely gives witneſſe of our preſent conſent, but according to it's deſigne and purpoſe, for the future it binds us onely to the conſervation of peace and unity.

lib. 3. cap. 7.

de Rerum inventor. l. 4. cap. 12.

2. For though it may be very fitting to ſubſcribe a confeſſion of articles, yet it may be very unfit that we ſwear always to be of the ſame mind; for that is either a profeſſion of infallibility in the authority, or in the article, or elſe a direct ſhutting our heart againſt all further clarity and manifeſtations of the truths of God. And therefore ſubſcription ought to be ſo intended, that he who hath ſubſcrib'd may not perceive himſelf taken in a ſnare: but yet he that ſubſcribes muſt doe it to thoſe purpoſes and in that ſenſe and ſignification of things which the ſupreme power intends in his commanding it; that is, at leaſt, that he who ſubſcribes does actually approve the articles over-written; that he does at that time believe them to be ſuch as it is ſaid they are; *true*, if they onely ſay they are true, *uſefull*, if they pretend to uſefulneſſe, *neceſſary*, if it be affirm'd that they are neceſſary. For if the ſubſcriber believes not this, he by hypocriſy ſerves the ends of public peace and his own preferment.

But

3. But this whole affair is to be conducted with ſome warineſſe, leſt there come more evil by it then there can come good. And therefore although when articles are fram'd, the Sons of the Church ought to ſubſcribe them for public peace, in caſe they doe heartily approve them; yet ſuch articles ought not to be made and impos'd, unleſſe they of themſelves be neceſſary, and plain by a Divine Commandement. And this was the advice of *Melanchthon. Ut ſit igitur diſcordiarum finis, rectè facit poteſtas obligans homines ut obtemperent, quando alioqui parere eſt neceſſe,* The ſupreme power may then command men to ſubſcribe to ſuch articles, which it is neceſſary that they ſhould believe. But if God have not commanded us to believe them, no humane power can command us to profeſſe them. in Epiſt. & Conſiliis theologicis.

4. Beyond what is neceſſary or very uſefull, unleſſe peace be concerned in the publication of the article and it's eſtabliſhment, it is but weakly and impertinently concerned in the ſubſcription. For if the peace of the Church be ſafe without the article, how can it be concern'd in the conſent to it and profeſſion of it, excepting onely by an accidental and a neceſſity ſuperinduc'd by themſelves and their own imprudent forwardneſſe, or itch of Empire over conſciences? If an article be conteſted publicly, and is grown into parties and factions, and theſe factions cannot be appeaſed without deciſion of the queſtion, then the conformity is as uſefull to peace as the ſentence and determination was; and then there is nothing elſe to be conſidered, but that the article be true, or believ'd to be ſo. But to them that are ſo perſwaded, it is neceſſary they obey, if they be requir'd to ſubſcribe; and the ſupreme power hath authority to require it, becauſe it is one of their greateſt duties, to govern and to rule in peace. But theſe things can ſeldome happen thus without our own fault: but when they doe, there is inconvenience on all ſides; but that which is leaſt muſt be choſen.

5. When articles are eſtabliſhed without neceſſity, ſubſcription muſt be requir'd without tyranny and imperiouſneſſe. That is, it muſt be left to the liberty of the ſubject to profeſſe or not to profeſſe that doctrine. The reaſon is plain. In things not certain in themſelves no man can give a law to the conſcience, becauſe all ſuch laws muſt clearly be Divine Commandements: but if the conſcience cannot be bound to the article, and the profeſſion ſerves no neceſſary end of the Common-wealth, then God does not bind, and man cannot: and therefore to bring evil upon men that doe not believe the article, and dare not profeſſe to believe what they doe not, is injuſtice and oppreſſion, it is a law of iniquity; and therefore it is not obligatory to conſcience, and no humane authority is ſufficient for the ſanction and impoſition. *Socrates* was wont to ſay, *Sacramentum oblatum duabus de cauſis fide firmandum: vel ut teipſum à turpi ſuſpicione liberes, vel ut amicos ex magnis periculis eripias.* When you are requir'd to give faith and ſecurity by a ſacrament, oath or ſubſcription, there are two caſes in which you muſt not refuſe: when thou thy ſelf art ſuſpected, and canſt no otherwiſe purge thy ſelf; and when any of thy relations is in danger, that is, when it is for good to thy ſelf or thy friends. But when there is no neceſſity of faith, and no public need to be ſerved, the cauſes that beſides theſe injoyn ſubſcription are fond perſuaſions, and indiſcreet zeal, and uſurped Empire over conſciences: in which caſes the Eccleſiaſtic ſtate hath no power to give Commandements; and if the Civil ſtate does, they oblige to ſuffering calamity, apud Stobæum

but

but not to any other conformity, and then it is a direct ſtate of perſecution.

6. Upon the account of this Rule it hath been of late inquir'd, whether it can be lawfull for any man to ſubſcribe what he does not believe to be true, giving his hand to public peace, and keeping his conſcience for God.

7. But to this the anſwer is eaſy, if ſubſcription does ſignify approbation; for in that caſe it is hypocriſy, and a denying to *confeſſe with the mouth, what we believe with the heart.* But if ſubſcription were no more then the office of the Clerk of the Signet or of a Council, who in form of law is to ſigne all the acts of Council, then the conſideration were different. For he that is a public officer, and interpoſes the ſignature of the Court, not as the account of his own opinion, but as a formality of the Court, all the world looks upon it as none of his perſonal act, but as a ſolennity of law, or an atteſtation of the act of the Council. But in ſubſcription to articles of confeſſion, or cenſure of Propoſitions as heretical, every Eccleſiaſtic that ſubſcribes does it for himſelf, and not for the Court. *Lubens & ex animo ſubſcripſi:* that's our form in the Church of *England.* *Conſentiens ſubſcripſi:* ſo it was in the ancient Councils, as S. *Auſtin* reports; I conſent to the thing, My mind goes along with it. But in this caſe the whole affair is put to iſſue in this one particular, which I touch'd upon before. If the intention of the Superior be to require our aſſent to be teſtified by ſubſcription, he that ſubſcribes does profeſſe his aſſent, and whatever he thinks himſelf, it is the intention of the impoſer that qualifies the ſubſcription. S. *Auſtin* tels of a Senator that upon his parol went to treat for his ranſome or exchange, and promiſed to return to them again in caſe he could not effect it. But he going from the army pretended to have forgot ſomething, and came back preſently, and then departed. But telling his ſtory to the *Roman* Senate, and pretending himſelf quit of his promiſe becauſe he went back preſently, they drave him out of the Senate; becauſe they regarded not what he had in his head, but that which the enemy intended when they made him ſwear to return.

Epiſt. 124. ad Alipium.

ubi ſuprá.

8. But the effect of theſe conſiderations will be this, That no particular Church ought with rigor to require ſubſcriptions to articles which are not evidently true, and neceſſary to be profeſs'd; becauſe in the diviſion of hearts that is in the world, it is certain that ſome good men may diſſent, and then either they ſhall be afflicted, or be tempted to hypocriſy: of either of which if Eccleſiaſtic laws be guilty, they are not for edification, they are neither juſt nor pious, and therefore oblige not.

9. But if for temporal regards the ſupreme power doe require ſubſcription, thoſe temporal regards muſt be complied with, ſo that the ſpiritual intereſt of ſouls and truth be ſecur'd. And therefore the next good thing to the not impoſing uncertain and unneceſſary articles is, that great regard be had, and great eaſe be done to wiſe and peaceable diſſenters.

10. And at laſt, in ſuch caſes, let the articles be made with as great latitude of ſenſe as they can; and ſo that ſubſcriptions be made to the form of words, let the ſubſcribers underſtand them in what ſenſe they pleaſe which the truth of God will ſuffer, and the words can be capable of. This is the

laſt

last remedy, but it is the worst; it hath in it something of craft, but very little of ingenuity; and if it can serve the ends of peace, or of external charity, or of a phantastic concord, yet it cannot serve the ends of truth and holinesse, and Christian simplicity.

CHAP. Vth.

Of Laws Domestic: or the power which Fathers of Families have to bind the Consciences of their Relatives.

RULE I.

Children are bound to obey the laws and Commandements of their Parents in all things domestical, and in all actions personal relating to the family, or done within it.

1. THE word of the Commandement is כבד, which signifies *to be* or *to make weighty*; but in *Piel* it signifies *to honour*; that is, *Honour your Parents*, and doe not lightly account of them: But in Levit. 19. 3. the word is יראו *fear thy Mother and thy Father*. They signify the same event of things, for a reverential fear is honour, and they both imply obedience. And there are three great endearments of this which make it necessary, and make it as absolute as it can be. The one is that our Parents are to us in the place of God:

Νόμιζε σαυτῷ τοὺς γονεῖς εἶναι θεούς

said the Greek Comedy, *Suppose your Parents to be to you as Gods.* *Hæc enim paternitas est nobis Sacramentum & imago Divinæ paternitatis, ut discat cor humanum in eo principio quod videt, quid debeat illi principio à quo est, & quod non videt.* *For the Fathers power is a Sacrament and image of the Divine Paternity, that a man may learn by the principle of his Being which he sees, what he owes to the principle of his Being which he sees not:* and *Plato* saies there is no image by which we can worship God so well as our Fathers, our Grandfathers and our Mothers. And therefore it is impiety to dishonour or disobey our Parents, and it is piety when we pay our duty to them. The same word signifies religion to God, which expresses this duty. *Parentes not amare, impietas est; non agnoscere, insaniæ.* For as there are two great crimes which we commit properly against God, *Impiety* or Irreligion, and *Atheisme*: so there are these two crimes against our Parents. He that does not honour and revere them is impious or irreligious; and he that will not acknowledge them is Atheistical, that is, like the Atheists, he denies the principle of his Being. And therefore upon that of *Virgil*,

Huc Pater O Lenæe veni——

Hugo de S. Victore lib. 1. de Sacram. c. 7.

lib. 2. de Legib.

Seneca l. 3. de Benef. c. 1.

in lib. 1. Georg. *Servius*

Servius obſerves that the Heathens called all their Gods by the name of Fathers: and an injury done to our Father is ſaid to be done to God, according to that of *Menander*,

Ὁ λοιδορῶν τ πατέρα, δυσφημεῖ λόγῳ,
Τῶι εἰς τὸ θεῖον ὢν μελετᾷ βλασφημίαν.

* *In verbis per tctam vitam parentes venerari maximè decet, levium enim volatiliumque verborum gravissima imminet pœna.* Plato *l.* 4. *de repub.*

He that reviles and ſpeaks evil of his Father *, does blaſpheme God; for

Θεοὶ μέγιστοι τοῖς φερῶσιν οἱ γονεῖς.

God is the Great Father of the world, and therefore he hath by the greateſt religion immur'd the Fathers honour.

Et Jovis imperium & chari præcepta parentis, Edocet....

Next to God is our duty to our Father.

2. 2. The ſecond endearment of our duty, obedience and regard to parents, is *gratitude*; which here hath the greateſt obligation, and is to this purpoſe remark'd by all laws and by all wiſe men of the World.

Omnis in Aſcanio chari ſtat cura Parentis.

All their love and all their care is for their dear boy. The child is a part of his parents, a tender part, but under cuſtody and a guard; and the ſtate of deſcent and ſucceſſion from parents to children is called *Suitas* in the law: and there is ſo much of a Father in his child, that if a Father and a Son be partners in a crime, and refuſe to confeſſe it before torments, the law commands the Son firſt to be tormented; *Charles* the ſecond, the Emperor, did ſo; as knowing that the Father will confeſſe rather then endure to ſee his ſon tormented: and when the Father does confeſſe upon the torment of his ſon, the Father is ſaid to be *confeſſus in tormentis*, ſaid *Baldus*, *he confeſſed in his own torments.* And as long as the Son is in priſon, the Father is not accounted free in law: and the Fathers ſins are then puniſh'd, when the child is made ſick, or unfortunate. So that the government of children is no otherwiſe then as a mans will governs his own hand & foot; over which, always ſuppoſing him to abide within the limits and inclinations of nature, that is, to love and cheriſh them, and in no ſenſe to hate them, in all other he hath an intire power of command.

l. 1. in fi. C. ſi rect. provi. in 2. lcc.

3. 3. The third endearment of childrens obedience is the power of bleſſing and curſing which God hath given to Parents, and which himſelf by his providence and great Oeconomy will verify. *The Fathers bleſſing eſtabliſheth the houſes of children, but the curſe of the Mother rooteth out foundations*, ſaith *Ben-Sirach*. And S. *Paul* exhorting children to obey their parents, ſaies it is *the firſt Commandement with promiſe*, that is, the firſt to which any ſpecial promiſe is annexed, the promiſe of longævity in the land of promiſe. *Benedictio merces obedientiæ eſt*, ſaith *Elias Cretenſis*, The Fathers bleſſing is the reward of the ſons obedience. But it is obſervable that the original word in the fifth Commandement is of active ſignification, *Honour thy Father and thy Mother* that *they may prolong* thy days upon the Earth; that is, ſaith *Paulus Fagius*, thy parents are Gods miniſters and inſtruments, the chanels and conveyances of the Divine bleſſing: for God hears the prayers of Fathers and Mothers bleſſing their obedient children, or curſing their diſobedience; inſomuch that *Ezekiel* reckons their diſobedience to their parents to be to the Jewes the cauſe of their baniſhment from their own Country. *Suidas* tells that *Leontius* the Biſhop of *Tripolis* in *Lydia* ſeeing his onely ſon of an ill nature and apt to miſchief, prayed

Eccluſ. 3. 10.

Ephel. 6. 2, 3.

Ezek. 22. 7.

to

to God that his ſon might die yong, leſt he ſhould fall into impiety: and God heard the Fathers prayer.

Δειναί τοι κ᾽ γαῖαν ἐρινύες εἰσὶ τοκήων, Orpheus.

The curſes of parents are grievous upon the earth. And this was obſerved among the Heathens in the ſad examples of the children of *OEdipus*, *Amintor* and *Theſeus*, who grew miſerable upon their Fathers curſes; and therefore *Telemachus* was afraid to caſt his Mother out of *Ulyſſes* houſe, leſt ſhe ſhould curſe him. And this was it that brought ſervitude or ſlavery into the world; God having in one of the fountains of mankind, in the great Patriarch of the world, conſign'd a ſad example that for ever children ſhould be afraid to diſhonour their parents, and diſcover their nakedneſſe, or reveal their turpitude, their follies and diſhonours. Plato lib. 11. de Leg.

4. To theſe I need not adde their natural neceſſity, their diſability to help themſelves, their obnoxiouſneſſe to every evil, their defenceleſſe condition, the miſeries and calamities and infirmities by their want of wiſedome, all which at firſt doe infinitely endeare obedience, and make it neceſſary: but I remember that this very thing was of great value amongſt the Ancients, and they did uſe to tell this fable to their children to teach them to obey their parents. "An old Lion, amongſt other precepts that he gave his "ſon, charg'd him that he ſhould never fight with a Man, becauſe if he "was not too ſtrong, he would at leaſt be too crafty. The young Lion "heard him, but regarded him not, but therefore as ſoon as ever he was "full grown, haſtens abroad to ſeek a man to be his enemy. He came into "a field, and ſaw a yoke of oxen ſtanding ready furniſh'd to plow, and ask-"ing them if they were men, they ſaid, No, but that a man had put thoſe "yokes upon them. He left them and went aſide, and eſpying a horſe "bridled and tied to a tree, ask'd if he were a man. He was anſwer'd, No, "but a man had bridled him, and would by and by come to ride him, for a "man was his Maſter. At laſt he finds a man cleaving wood, and ask'd "him: and finding him to be ſo, told him he muſt then prepare to fight "with him. The man told him, With all his heart, but firſt deſired him to "help to draw the wedge out of that tree, and then he would. The yong "Lion thruſts in his paws, and a little opens the tree till the wedge fell out, "and the tree clos'd upon his feet by it's returning violence. The man "ſeeing the lion faſtned, and the lion ſeeing himſelf entrap'd, the man "cried out to his Neighbours to come to his help; and the lion to eſcape "his danger tore his feet from the tree, and left his nailes and bloud be-"hind him, and returning with ſhame and ſmart to his old Father ſaid to "him, *Mi Pater, ſi paruiſſem monitis tuis ungulas non amiſiſſem, I had not "loſt my nailes if I had obeyed my Fathers commandement.* For the commandements of parents being for the good of their children, he cannot be proſperous that will not obey his Father. That was their meaning.

5. But concerning the duty it ſelf there is no queſtion; nothing is plainer, nothing is eaſier: but concerning the limits and adminiſtration of this power there is very great difficulty; the Scripture ſpeaking either indefinitely or univerſally, either of which does equally need a limit and ſpecification. *Children, obey your parents in all things*, ſaith S. *Paul*: and if that all were abſolutely all, there were no difficulty in the underſtanding it; but infinitely difficult it would be to obſerve it, and reconcile it with our other duties and juſt intereſts. And juſt ſo is that law which by the conſent of all

the world is repreſented as univerſally, *Liberi quacunque in re parentibus dicto audientes ſunto*; and he in the Comedy, *Pater adſum, Impera quodvis, neque tibi ero in mora, Here am I my Father, Command me any thing, neither will I reſiſt.* But this any thing and this every thing, is but any thing and every thing of a certain kind; which if we can eſtabliſh upon certain meaſures, we have one great line more for the conduct of conſcience. The Divines and Lawyers reduce the iſſues of this relation to three heads, 1. Reverence, 2. Animadverſion, 3. Piety.

Trinum. Act. 3.

Of Reverence to Parents.

6. And firſt it is certain whatever can be ſignified by honour and fear and reverence is the duty of children; that is, ſo far as to think honourably of them, to ſpeak well of them, to conceal their faults, to excuſe them to others, to comport themſelves with reverence and great regard before them.

Βέλτιστε γονεῖς πρὸ παντὸς ἐν τιμαῖς ἔχειν,

Above all things have your parents in honour: and this is to be expreſs'd according as the parents ſhall require, and according to the cuſtomes of the nation and the moſt pious and obedient in it; for *vultu quoque lædi pietatem*, was an old rule, A child may be rude and undutifull in his very looks; and he deſerves to be puniſhed with blindneſſe, *qui parentum vultus torvo viſu deſpexerit, & elatis oculis læſerit pietatem*, ſaith S. *Hierom*, who by proud looks and ſcornfull eyes is impious to his parents. But this duty is well deſcrib'd by *Theophilus* to *Autolycus*, *Sanctum & laudabile cenſetur, non ſolùm apud Deum ſed & apud homines, videlicet ut in ſimplicitate & abſque omni malitia ſubjiciamur parentibus.* Children muſt be ſubject to their parents without all malice or perverſeneſſe, and in all ſimplicity, that is, ingenuity of words and manners. And when *Ptolemy* asked one of the 72 tranſlators of the Bible how a ſon ſhould pay due thankfulneſſe to his parents, he was anſwer'd, *Si nullâ re illos triſtitiâ affeceris*, If you grieve them in nothing. That's the ſureſt meaſure.

7. The next thing that is alſo certain in this is, that all the good Counſels and precepts of holineſſe and wiſedome which the parents give, it is neceſſary the children ſhould obſerve; and beſides that the not obſerving them is a ſin againſt the ſpecial Commandements, it is alſo a ſin of diſobedience, and a rebellion againſt the Fathers authority. So the Father in the Comedy urges his authority,

Plaut. Trinum. Act. 3.

Feceris par tuis cæteris factis, Patrem
Tuum ſi percoles per pietatem. Nolo ego cum improbis te viris,
Gnate mi, neque in via, neque in foro ullum ſermonem exequi.
Hæc noctes dieſque tibi canto ut caveas
..... meo modo, & moribus vivito antiquis:
Quæ ego tibi præcipio, hæc facito: hæc tibi
Si mea Imperia capeſſes, multa bona in pectore conſident.

Keep good company, avoid the debaucheries of the preſent times, live as I command, and as your forefathers did live; and if to theſe purpoſes you ſubmit to my government, good things ſhall dwell within you.

But

8. But we find amongſt the Ancients ſome little inſtances of this honour and reverence beſides obedience ſpecified. The Ancients would not without leave goe from the preſence of their Father: ſo he in the Comedy,

——neque latebrosè me abs tuo
Conſpectu occultabo——

Trinum. ubi ſupr.

* They would not conceal from their parents the entercourſes and accidents of their youth, their amours, their miſtreſſes, their deſignes of marriage, their little plots, and advantages or diſadvantages.

Quæ fert adoleſcentia
Ea ne me celet conſuefeci filium:

that is, they accounted it part of the honour due to their parents, to tell them truth in all things where they were interrogated, or ſuſpected.

Nam qui mentiri aut fallere inſuerit Patrem, aut
Audebit, tanto magis audebit cæteros.

Terent. Adelph Act. 1. Scen. 1.

He that lies before his Father diſhonours him, and commits two ſins; he tranſgreſſes two commandements. * Adde to this, they counted it impiety to ſteal any thing from their parents.

ibid.

Egon' Patri ſurripere poſſim quidquam tam cauto ſeni?
Atque adeo ſi facere poſſem, pietas prohibet.

That is, whatever was a ſingle injury if done to a ſtranger, was double if committed againſt their parents: for as to doe good to them was piety as well as charity, it was religion and juſtice too; ſo to doe any evil to them is to doe them diſhonour, and expreſſely againſt the fifth Commandement. Theſe are the firſt general meaſures, and the indication of very many particulars. Prov. 28. 24.

9. But there is one great meaſure more, and that is, that ſpecification of the duties of this Commandement which we find in the laws of Nations and the conſent of all wiſe men, and particularly of thoſe with whom we doe converſe, and by whom we are governed. For our parents have a double power over us, one by the law of Nature, and the other by the Civil law; that is, there are ſome duties which children doe owe to their parents, which are primely and indiſpenſably neceſſary, others which are ſpecifications and inſtances of a general duty, but ſuch which may ſuffer increaſe and diminution, but are neceſſary by virtue of a Divine Commandement when they are bound upon us by the laws of our Country; becauſe theſe are of the nature of thoſe things whoſe natures can be chang'd by becoming laws, and are reduc'd under the Category of their proper vertues. The particulars I ſhall draw out of the laws of Nations, from the Civil and Canon laws, reducing them to diſtinct rules ſhall deſcribe their ſeveral obligations of the conſcience: and they relate to the other two parts of parental power, ſignified by *Caſtigation* and *Piety*.

Of *Caſtigation*, or the Coercitive power of Parents.

Rule II.

Fathers have a power to chaſtiſe their offending children, but not a power of life and death.

1. IN the laws of *Romulus* and *Numa*, Fathers had a power three times to ſell their children, and a power to put them to death in certain caſes: and they attribute much of the proſperity of their city to this permiſſion, nothing being a better inſtrument to make good citizens, then by making them good ſons: it being very unlikely that ever he ſhould command well abroad, that knows not well how to obey at home.

Quicunque patrem timet ac reveretur,
Hic in bonum civem evadet proculdubio,

ſaid *Timocles*, He that fears and obeys his Father, without peradventure as he is a good man, ſo he will make a good citizen *. And therefore it was obſerved by *Dionyſius Halicarnaſſeus* that amongſt the *Greeks*, Contumacy, Impiety and Parricide were very common; and he gives this reaſon, becauſe *Charondas*, *Pittacus* and *Solon* did by their laws give the Fathers no great power over their children. But I ſaid that the *Romans* did, and thoſe great examples of *Titus Manlius*, *C. Flaminius*, *C. Caſſius*, who put their ſons to death, were indeed very ſevere, but did imprint great terrors upon all the *Roman* youth. *Bodinus* thinks this to be a natural and unalterable power; and *Ærodius* ſuppoſes that God would not have commanded *Abraham* to kill his ſon, but that it was a part of his ordinary and inherent power; and when *Judah* commanded his daughter in law *Thamar* to be brought forth and burn'd for her adultery, it gave indication that he by his ſupreme paternal power in the family had power of life and death. And of this there is no queſtion in the heads of families, where the Father is a Patriarch, the fountain of his nation, or of his ſociety, and under the command of no ſuperior: for the *paternal power* is the fountain of the *Royal*; and *Abimelech* was nothing but *the King my Father.*

* *Si quis inofficioſus fuerit in parentes, communium Magiſtratuum ſit incapax. Xenoph. l. 2. de diſſ. & juſt. Socrat.*

2. But when families were multiplied, though Fathers were fitter to be truſted with the ſevereſt power then any other ſort of intereſted perſons, yet becauſe this might fall into diſorder, God was pleas'd in the law of *Moſes* ſo to order this affair, that the Fathers power ſhould not be diminiſhed, & yet the execution of it and the declaration of the ſentence ſhould be truſted to the Judge. For if a Father found his ſon ſtubborn, rebellious, diſobedient, a glutton or a drunkard, all which are perſonal crimes, and againſt the private authority and counſel of the Father, the Father and the Mother might delate him to the Judge, and without further proof but their own teſtimony he was to be ſton'd to death. Drunkenneſſe & gluttony were in no other caſes capital in the law of *Moſes*, but when joyn'd with rebellion or diſobedience to their parents. And like to this proceeding in *Moſes* law was the proceſſe in the *Perſian* Monarchy. For *Ælian* tells that when

Deuter. 21. 18.

Rhaco

Rhaco the *Mardian* brought *Cartomes* his ſon with his hands bound behind him to *Artaxerxes*, deſiring that the Prince would command him to be ſlain, becauſe he was impudent, he was naught, he was a villain; the *Perſian* King ask'd him if he could find in his heart to ſee his ſon die with violence: The Father replied, I have in my garden a goodly lettice, fat and wanton and full of leaves. When I find any of them luxuriant, proud and exorbitant, though it be a part of the body I cut it off; and ſo I doe to whatſoever is bitter and ſuperfluous, and my lettice is the ſweeter for it, it does not bewail the loſſe of it's bad leaves, but thrives the better. Think the ſame of me, O King; for though he be par'd away that hurts my family, that gives ill example to his Brothers, my ſtock will be the more thriving, florid and fruitfull in all good things.] By this inſtance we perceive that when Fathers had not power to put to death their rebellious children, they could require it of the Prince, who was to proceed ſummarily and meerly upon the Fathers inſtance. And we find in the *French* Annals that *Stephen Boſtée* the Preſident of *Paris* impal'd a yong fellow becauſe his Mother ſaid that ſhe could by no arts or labour keep him from being a thief.

3. But this went off very much in the manners of men; and children were by other means reſtrain'd ordinarily, before things were brought to that extremity; and in the Civil law parents were forbidden to kill their children, and this law hath prevail'd in all Chriſtendome, excepting that a man is in ſome places permitted to kill his daughter if he ſees her in unchaſt Embraces. But in ſtead of theſe great exceſſes of power, there is left to Chriſtian parents nothing but a decent caſtigation in the leſſer and ſingle faults, and diſinheriſon in caſe of great and perſevering. That children are to ſubmit to the animadverſions and chaſtiſements of their Fathers is the voice of nature, and of all Nations, of Scripture and right Reaſon. So S. *Paul*, *We have had Fathers of our fleſh which corrected us, and we gave them reverence*: and *Ben-Sirach* teaches us, *In opere & ſermone & omni patientia honora Patrem tuum*, *Honour thy Father in thy work and in thy word, and in all patience*, ſo the Vulgar Latin reads it; that is, ſuffer what he impoſes upon you: and this was it which the yong Greek that *Plutarch* ſpeaks of had learn'd in *Zeno*'s ſchool, *Didici Patris iram ferre*; *I have learn'd* (ſaith he) *patiently to bear my Fathers anger*. The authority is plain; the meaſures of it are onely, that it be done for amendment; that is, that it be diſcipline, not anger and revenge, and that it be done with charity and moderation, which is ſignified by S. *Paul*, *Parents, provoke not your children to wrath*; which precept he repeats, μὴ ἐρεθίζετε, μὴ παροργίζετε, give them no opprobrious words, no contumelious and provoking language, and therefore much leſſe any cruel and undecent caſtigations.

§ final. inſt. de noxa. l. Divus. ff. ad leg. Pomp. de parricid. & toto tit. C. de his qui Parent. vel fil. occid.

Hebr. 12. 9.

Eccluſ. 3. 8.

Epheſ. 6. 4. Coloſſ. 3. 21.

Pudore & liberalitate liberos
Retinere ſatius eſſe credo, quam metu.
Hoc patrium eſt, potius conſuefacere filium
Suâ ſponte rectè facere, quam alieno metu.
Hoc Pater ac Dominus intereſt: hoc qui nequit,
Fateatur ſe neſcire imperare liberis.

Adelph. Act. 1. Sc. 1.

A Maſter governs by fear, & a Father by love, & both by their authority: but the gentle way is the Fathers method; but if he will uſe the ſevere, he hath authority to doe it, and right or wrong he muſt be ſuffered, till the evil be inſufferable, and then he may decline it, but ever with reverence to his Fathers honour; for indeed againſt a Fathers tyranny there is no aid, no

remedy, no interceſſion, but by an appeal to the common Father, the chief of all the tribes and all the families. This onely I am to adde, That as Fathers have not a power of life and death over their children; ſo neither are they lightly to uſe that power which they have, and is next to this, that is, that I may uſe S. *Ambroſe* his expreſſion, *ne læſa pietas Patris ulciſcatur ſe exhæredatione vel abdicatione contumacis generis*, a power of diſinheriſon is not to be us'd for every great offence, much leſſe for a little. *Pater, niſi magnæ & multæ injuriæ patientiam evicerint, niſi plus eſt quod timet quam quod damnat, non facile accedit ad decretorium ſtylum*, ſaid *Seneca*, *A Father will not eaſily proceed to an exterminating ſentence, unleſſe great and many injuries have quite overcome his patience. Nor then neither, unleſſe he fear worſe things then thoſe which he already blames.* For, as *Quintilian* obſerv'd well, this power was not given to Fathers but when their ſons are incorrigible. *Fulmen iſtud Patrum adverſus ferociam adoleſcentiæ datum eſt, adverſus filios qui peccare plus poſſunt.* If they will ſin yet more, and will not be corrected, then they may unwillingly uſe this thunderbolt. It is like the ſentence of excommunication, never to be us'd but when nothing elſe will cure the man, and nothing at all will make the miſchief tolerable: that is, a ſon may not be diſinherited, but when he may be hated, which may never be, *ſine cauſis multis, magnis & neceſſariis* (as *Cicero* affirms) The cauſes muſt be great and many, and intolerable, and without remedy. But of theſe things becauſe the Fathers are judges, they muſt judge according to the permiſſions of law, and the analogies of Chriſtian prudence and charity; for if they doe amiſſe, the Child is miſerable by the Fathers paſſion, and the Father by his own.

lib. 5. Epiſt. 20.

lib. 1. c. 14. de Clement.

Declam. 259.

Orat. pro Roſc. Amer.

Of Piety to Parents.

Rule III.

A Father hath power over the goods and perſons of his Children, ſo as to be maintain'd by them.

1. The Lawyers define the *Paternal power* to be *jus moribus legibuſque conſtitutum, quo Patri in filium bonaque ipſius plenum jus olim tributum fuit*; *a full right upon his ſon and his ſons goods introduc'd by laws and cuſtomes.* Now this full right is alterable by the Civil law of any nation: that is, whereas amongſt the *Romans* whatſoever the ſon acquir'd, he acquir'd it not for himſelf, but for his Father; this may determine ſooner or laſt longer, according to the appointments of law, for *the heir ſo long as he is a child differs nothing from a ſervant*, and therefore if the law pleaſe, may be us'd accordingly; and when the law hath ſo appointed, the Conſcience is bound by it.

Sebaſt. Monticul. de Patria poteſt.

2. But that which is not alterable by laws is that which is the natural and neceſſary duty, that parents be maintain'd by their children if they need it: for this is in the Commandement, this is a part of the honour that is due to them. For ſo our Bleſſed Saviour remarks the ἀντίθεσις: the Phariſees that taught the children to cry *Corban, it is a gift*, and therefore out of it the

the parents muſt not be profited, he calls it *a not honouring the Father and Mother*; and *the double honour* which S. *Paul* commands to be given to *the Elders that rule well* is inſtanc'd in the matter of maintenance. And this the Heathens had. So *Hierocles*, γονέας τιμήσωμεν ὑπερβαλλόντως, σώματος ὑπηρεσίαν καὶ χρημάτων χορηγίαν ὑπέχοντες ὅτι μάλιστα προθυμοτάτως, *Let us greatly honour our parents, affording them the miniſtery of our bodies and the uſe of our wealth moſt chearfully.* But this *Cicero* limits to the *neceſſaria vitæ præſidia, quæ debentur his maxime*, the neceſſary aides of life; that is, what is for their ſupport, to keep them from need and ſhame, according to the *quality* of the parent and *ability* of the child: ſo that *this* be firſt reſpected, and then *that*, ſaith *Bartolus*. To this purpoſe is that of S. *Ambroſe*, *If the contumely of the Father and the reproaching or vilifying of the Mother be puniſh'd ſo ſeverely, what ſhall their ſtarving or their beggery be?* This the *Romans* did reſent ſo deeply, that they made a law that if a ſon that was emancipated or quitted from his Fathers government did deny aliment to his indigent Father, he was to be reduc'd under his Fathers power, and ſo to abide for ever. But by this inſtance it is apparent that this is no part of the Fathers power, but is an office of the ſons piety. For between the Father & the ſon there is a threefold chord or tie, as I have already obſerved, the band of Reverence, of Caſtigation, and Piety; the two firſt are the Fathers authority, this laſt gives the Father properly no right, but obliges the ſon directly. But then this is to be added, that this obligation is onely confirm'd by the Civil laws, but it is immediately tied upon him by the Natural: for a ſon is bound to keep his Father from ſtarving though he be a *Bandito*, or an Out-law, that is, though he have loſt all civil rights, becauſe no Civil power can prejudice a Divine Commandement. *Plutarch* tells that by *Solon*'s law the ſon was not bound to give his Father aliment, if his Father caus'd him to learn no trade, or taught him nothing whereby he might get his living. Indeed if the Father neither did give him whereon to live, nor teach him whereby he might get it himſelf, the ſon is the leſſe oblig'd; but yet ſufficiently for this, becauſe it is by a law of Nature that he is oblig'd, and all ſuch obligations are before ſuch conditions can intervene. Πῶς ἂν ὁ γεννηθεὶς ἀντιγεννῆσαι δύναιτο τὸν σωίσαντα, ſaid *Ariſtotle*. Something elſe is to be conſidered beſides the advantages of education: the Father was the principle of his Being, and in that he can never be requited in kind, and therefore let him be paid by duty.

* Matth. 15. 6.
1 Tim. 5. 17.
Offic. 1.
in l. Si libertis: §. manumiſſis, ff. de alim.
In Luc. 18.
l. Unic. C. de ingrat. liber.
in vita Solonis

3. But if the caſe be ſuch as divides the duty, and the money cannot be divided, what ſhall then be done? *Marco Tomaſo* a tradesman in *Venice* had a Father and a Son, both lame, both in great neceſſity. The Father loſt all his goods to the *Turks*, and the ſon had rowed in the Gallies till all his ſtrength and health was gone: but the poor Cutler (for *Tomaſo* was no more) was not able to relieve them both: what ſhall he doe? The caſe here is hard. But love deſcends, and aſcends not: therefore *Tomaſo*'s bowels yern upon his ſon; and he cannot have that tenderneſſe for his Father, and he were unnatural if he ſhould let his ſon periſh. It is true, but therefore he ought not to neglect his Father and feed his ſon, becauſe his ſon does not, cannot love him ſo well as his Father does; and therefore he is obliged by gratitude to his Father, and by tenderneſſe to his ſon; to this there is more natural inclination, but to the other there is more natural duty. And therefore the Lawyers ſay that *amor deſcendit, non aſcendit*, is to be underſtood *quoad ordinem dilectionis, non quoad effectum obligationis*. Love does

deſcend, but it ſhould not in ſome caſes. And therefore when the law gives leave that a Son may by his Father be ſold to keep the Father from ſtarving, it ſhews plainly that the Father is in caſes of neceſſity to be preferred.

4. And this indeed by the help of the Civil laws brings this rule to an inſtance of Paternal power; for a Father in this law hath a right over his ſon, and can deliver him to labour and ſervice for the neceſſary ſupport of his helpleſſe Father. This we find done frequently,

Metamorph. 8.

——Et tandem demiſſa in viſcera cenſu
Filia reſtabat non iſto digna parente:
Hanc quoque vendit inops.

And *Euſebius* tells it was done in the time of *Maximianus* the Emperor; and the Prophet *Jeremy* brings in the people complaining in a time of famine, *Our ſons and our daughters are too many, let us take corn for their price, that we may eat and live.* But this being onely in the caſe of extreme neceſſity is not to be drawn to any thing elſe, for this power is onely juſt when it is unavoidable: and therefore it is permitted in laws, which doe therefore ſo comply with the neceſſity, and endeavour to find a remedy, or to make it tolerable, that in ſuch caſes the judges, if there be a conteſt in the particular, are tied to proceed ſummarily: and if a ſon ſhould pretend cauſes of excuſe from giving aliment to his Father, during the whole conteſtation, and till the proof be made, the Son is tied to maintain his Father in the interval; ſo carefull are the laws to ſecure the performance of this duty, for the omiſſion of which all the world hath obſerved great marks of the Divine diſpleaſure, expreſſed in judgments, and particularly of immature deaths; ſo

Iliad. 4.

Homer obſerves of *Semoiſius*

——— οὐδὲ τοκεῦσι
Θρεπτὰ φίλοις ἀπέδωκε, μινυνθαδίην δ' οἱ αἰὼν,

He refus'd to nouriſh his loving parents, and therefore he liv'd but a ſhort life.

5. One particular more is to be added, and that is, if an indigent Father have a rich Father living and a rich Son, although both are oblig'd to nouriſh him, yet it is in the Fathers power to burden the Son and to excuſe the Grandfather; that is, the power which the Father hath over the Son can require this duty: The Grandfather is equally oblig'd, but the Son hath no power over him, the law hath. For as for the thing it ſelf there is no other difference in it. But if the rich Father refuſes he is worſe then an Infidel, if the rich Son refuſes he is impious; the firſt is unnatural, and the ſecond is ungodly; the firſt is a heathen, and the other is no Chriſtian; the Grandfather hath no bowels, and the Grandchild no gratitude; the firſt hath no humanity, and the other no Religion; ſo that it is an even lay between them which is the worſt: but the neceſſitous Father may put the duty actually upon the Son by reaſon of his Paternal power, that is, he may ſo order it, that if the Son refuſes he is not onely uncharitable, but undutifull alſo, he commits two great ſins; whereas the refuſing Grandfather commits but one, though that alſo be enough to bring him an extreme damnation.

RULE IV.

The Fathers power does not extend to matter of Religion, and perſuaſions of Faith.

1. IN the law of the XII Tables it was written, *Sacra privata perpetua manento*, that *the private Religion of a family ſhould not be alter'd:* which *Cicero* expounds to mean that all thoſe to whom the care of the Father of the family did appertain were tied to the celebration of the ſame rites; and the lawyers ſay, that *Filii ſunt in ſacris parentum dum ſunt in eorum poteſtate, Children are within the holy rites of their parents while they are in their power.* And indeed this is very true in the Court of Conſcience ſo long as their underſtanding is in their Fathers power; but that is of all things firſt emancipated: when a Son can chuſe for himſelf, when he is capable of malice and perverſeneſſe, when he is judicable by external and public laws, then he is emancipated and ſet free, ſo as he can chuſe his religion, and for that the Father hath no other power over him but perſuaſion and inſtruction. For it is very obſervable that as it was ſaid of the law of *Moſes*, it was a ſchool-maſter to bring us unto Chriſt, ſo it is true of the *Imperium domeſticum, the Fathers government*, it is a pedagogy to bring us to the obedience of the laws both of God and Man: the Fathers commands are exacted before the laws of God or Princes doe require obedience; becauſe the Government of children is like the Government of the ſick and the mad-men, it is a protection of them from harm, and an inſtitution of them to obedience of God and of Kings; and therefore the Father is to rule the Underſtanding of his child, till it be fit to be rul'd by the laws of God; that is, the child muſt believe and learn, that he may chuſe and obey; for ſo we ſee it in the baptiſing infants, the Fathers and Suſceptors firſt chuſe the childs religion, and then teach it him, and then he muſt chuſe it himſelf. For the Fathers authority to the underſtanding of the child is but like a falſe arch or temporary ſupporter, put under the building till it can ſtand alone: and it onely hath this advantage, that the Father hath the prerogative of education, the priority of poſſeſſion, which how great it is all the experience of the world can tell. But that this is part of the Paternal power is evident, becauſe no child is to be baptized without his Fathers will. A Turk, a Jew, a Heathen can reckon their children *in Sacris Parentum* *, they have power, a natural and proper power to breed up their children in what religion they pleaſe, but not to keep them in it; for then when they can chuſe they are under no power of man, God onely is the Lord of the underſtanding: and therefore it is no diſobedience if a Son changes his Fathers religion, or refuſes to follow his Fathers change, for he cannot be injur'd in that where he hath no right and no authority.

lib. 2. de Legib.

Alciat. lib. 1. Præterm. in verb. ſacra.

* Panormit. In cap. 2. de converſ. infid. & Baldus in l. item in poteſtate. ff. de ju. perſon.

2. But this is ſo to be underſtood that the religion of the Son muſt at no hand prejudice the Fathers Civil rights, ſo that he muſt not quit his Fathers houſe, if he be under his Fathers power, and by the laws of his country be oblig'd under that government. *Vigoreus* in his Sermon of S. *Martin*, tells that S. *Martin* being but a Catechumen and yet unbaptiz'd did ſtill abide

abide with his Father and Mother though they were heathens, and he nevertheleſſe did all the offices of a Chriſtian. And there is in this great duty, becauſe one right muſt not deſtroy another; and a man may be of what religion he pleaſe without doing wrong to any man, for a man cannot be hindred in his perſuaſion, for though he dies, he is of that religion; but no good religion does warrant the Son to doe wrong to his Fathers legal rights. And therefore *Marius Victor* obſerves of *Abraham*,

Tit. 3. Comment. in Geneſin.

Verum mente Deum venerans, Gentilia Sacra
Averſatus erat———————

He was a great hater of his Fathers idolatry and the impious rites of his family, yet he did not leave his Fathers houſe till after his Fathers death.

Linqueret ut ſedes patrias, terramque nocentem
Pollutamque domum, niſi poſtquam morte parentis
Juſſa ſequi jam poſſe Dei ſine fraude licebat.

He might doe it juſtly when he had no juſt power over him to reſtrain him by the cords of another juſtice and a differing duty.

3. There is onely this *variety* to be added, that when either of the parents is Chriſtian, and the other Infidel, the Son is to be reckon'd to the believing parent: the effect whereof can be this, that he or ſhe that believes hath a right to educate the children in Chriſtianity without injury to the other, and the Church may baptize the children againſt the will of the unbeliever: and the reaſon of this is, the prerogative of God, and of Chriſt who is head of the Church, and the Soveraign of all the world; for if the child is ſanctified and made holy by the believing parent, then it may be brought to Chriſt; that ſanctification of it is Chriſts ſeizure of it, it is his right, becauſe he hath made a Covenant with the parents for themſelves and for their children.

4. This is practis'd in the Countries of the *Roman* Communion to evil purpoſes; and if the Father be a heretic in their account, they teach their children to diſobey their parents, and ſuppoſe hereſy to deſtroy the Fathers right of power and government. Between Chriſtian and Chriſtian there is no difference as to matter of Civil rights; no law allows that: but between Heathen and Chriſtian, ſo far as the ſoul is concern'd, the right of Chriſt is indubitable; for we are ſure Chriſtianity is the true religion: but amongſt the Sects of Chriſtians the caſe is wholly differing, for they may both have enough to ſecure the ſouls of pious perſons, and yet may both be deceiv'd in their queſtion, and unneceſſary article.

RULE V.

The Fathers power over the children can remit an injury done to them, without their leave or conſent.

1. THe reaſon of this depends upon the former conſiderations, and is to have it's underſtanding accordingly. So long as the Son is within the Civil power of the Father, ſo long as he lives in his houſe, is ſubject to his command, is nouriſh'd by his Fathers charge, hath no diſtinct rights of his own, he is in his Fathers poſſeſſion, and to be reckon'd by his meaſures, and therefore cannot have any *actions of injury* for his own amendment.

2. But this is to be limited onely to the effects of law and external Courts and trials of right, or external actions of injury. For although a Son cannot repeat what the Father hath legally acquitted, yet if it be a perſonal action, in which charity and peace are concerned, the injurious perſon is bound in conſcience to ask the Son forgiveneſſe, upon the account of S. *Paul*'s words, *Follow peace with all men and holineſſe*, and, *for as much as is poſſible live peaceably with all men*; which no man can be ſaid to doe who hath done wrong to a perſon, to whom he will not doe right. For beſides the relation and the communication of it's effect between Father and Son, the Son is a perſon too, and in perſonal actions hath an intereſt naturally and unalterably, which no fiction of law, no ſuppoſition of caſe can take off. So that all the legal and external obligation the Father may remit; but in the perſonal there is ſomething of proper concernment.

3. This is alſo to be limited to an entercourſe with extraneous perſons, and is not true in actions between the Son and a conjunct perſon to him. As if the injury be done by a wife, or a ſpouſe, or a freed man, or a perſon endeared and oblig'd by the Son, the Father cannot remit any ſuch injury. The reaſon is, becauſe although by the force of the Civil or Municipal laws the Son be ſuppos'd to be ſtill in the Fathers power, yet in ſuch things he hath ſome peculiarity, and is as to thoſe things free and in his own power. If the Sons wife commit adultery, the Father cannot forgive it, though the Son be under his Fathers power by law; becauſe as to all perſonal actions the Son hath a perſonal right, and ſuch things have great dependance upon the law of God and Nature, and theſe things to ſome great purpoſes doe not at all communicate with the Civil laws.

4. Laſtly, this Rule is ſo to be underſtood and practis'd, that it be no prejudice to the juſt intereſts of any other: and therefore a Father cannot ſo forgive an injury done to his Son, that he ſhall be tied not to witneſſe it in public, when he is requir'd by the Civil power; for it may concern the Common-wealth that the Criminal be puniſh'd, when it may become the Father to pardon his and his Sons ſhare. He may remit all with which he hath to doe, but not that which may paſſe into the Exchequer. But in ſuch

ſuch caſes the Judge may inquire, but the Son without the Fathers leave may be no voluntary accuſer.

Rule VI.

A Fathers authority cannot abide after his death, but the Sons piety to his Father muſt, and may paſſe upon him ſome indirect obligations.

1. THe Son after his Fathers death is as much lord of his perſon and his eſtate as his Father was: and therefore although all the actions which the living Father did, which by law or the nature of the thing have a permanent effect, ſtill doe abide as they were left; yet thoſe things which are of an alterable nature, and to be adminiſtred by new Counſels, and to be determin'd by emergencies and proper circumſtances, or are directly ſubject to Empire, or are perſonal concernments, theſe are in the power of the Son after his Fathers death. A Father cannot by his power command a Son to marry a perſon whom the Father does, but the Son does not love: He cannot command the Son by a juſt and a ſufficient authority never to be a Prieſt, or Biſhop, or a Magiſtrate: for in thoſe things in which his own meer intereſt is concerned, his own underſtanding muſt be his guide, and his will his Ruler, for he alone does lie at ſtake whether it be good or bad; and it is not reaſonable that he ſhould govern who neither gets, nor looſes, nor knows.

2. But though the Fathers authority be extinct, yet his memory is not, and there is piety towards the dead, and to parents much more; and of this lib. 10. the Heathens gave ſome worthy examples. *Herodotus* tells that the *Iſſionides*, a people of *Scythia*, did uſe to embalm their Fathers head, and then to cover it with gold, and uſe it for a Divine image, and pay to it the veneration of a yearly ſacrifice. This they intended for an honour to their dead Father: but in this there were no ſignes of obedience. Nearer to this de Anima c. 57. was that which *Tertullian* tells of the *Naſamones*, that they took their oracles at the graves of their Fathers, as ſuppoſing the ſouls of their Progenitors to have ſome right or care to conduct their children. But it was a lib. 16. c. 5. pretty ſtory that *Ælian* ſaies the *Brachmanes* tell of a certain King of the *Indians* that had many Sons, who being all of them (the yongeſt onely excepted) immorigerous and rebellious, at laſt drove their Father and Mother from their Kingdome; and they with their yongeſt Son wandring in ſtrange places were quickly conſumed with age and wearineſſe and inconvenience. The yong Son ſeeing his parents dead, burnt their bodies, and ſtriking his head with a ſword, put the aſhes into the wound, by that act of piety giving his parents the moſt honourable ſepulture, but with it alſo emblematically repreſenting that his parents even after death had power upon his head, and that his head ought to be ſubmitted to them. And it was well; if piety goes before, whatever duteouſneſſe or obſervance comes afterwards it cannot eaſily be amiſſe.

Piety

3. Piety ſometimes does more then Authority can. *Plus poteſt patria poteſtas in liberos quam lex, legióve, aut ſumma Dictatura*, ſay the lawyers; A Father or a Mother can prevail, when a *Conſul* or a Prince cannot. *Cum Martius Coriolanus pergebat infeſto agmine adverſus Patriam, quis illi arma ſuccuſſit è manibus niſi una Veturia?* ſaith the *Roman* ſtory. *Coriolanus* took up armes in rage againſt his Country; and no authority could diſarme him but his piety to his Mother *Veturia*. Now this principle is a good one; but it hath no limits of it ſelf, but onely what we give to it our ſelves by prudence, and neceſſity, and the nature of the things that are to be done. But in things that are pious and prudent, or that are innocent and indifferent, a dying Fathers deſire, or a living Fathers counſel ought to be eſteemed ſacred: and though they make no law, yet they paſſe an indirect obligation; that is, if they be transgreſſed without reaſon, they cannot be transgreſſed without impiety. It is certain, God is pleas'd with this obedience of piety, as is apparent in the caſe of the *Rechabites*; and ſuch actions are exemplar in a family, and make the name of Father venerable and ſacred; and ſometimes the neglect of a dying Fathers charge hath met with a ſad event; and a petulant diſobedience hath been a rebellion againſt the greateſt reaſon, which ſometimes is the greater by how much it ought the more to be conceal'd. *Philotimus* of *Athens* having obſerv'd his Son given to amours and wandring fancies, upon his death-bed charg'd him by all that was Sacred and Prophane, that however he did reſolve to pleaſe his fancy and ſatisfy his *impotent* deſires, he ſhould be ſure not to court or to fall in love with *Pagnium*. *Philotimus* dies, and *Philodectes* his Son having quickly dried up his teares which were caus'd by the ſmoke of the funeral pile, hath a great curioſity to viſit this pretty Greek that his Father had ſo forbidden to him. He ſees her, likes her, courts her and lies with her; and in the firſt night of their congreſſe, ſhe being over-pleas'd, told him that ſhe infinitely preferr'd his kindneſſe before the dull embraces of his Father *Philotimus* which had ſo often tir'd her. Upon this the yong man ſtarts and trembles, and finds his ſin and ſhame, the rewards of an impious diſobedience. His want of piety to his dead Father made him inceſtuous in his mixtures and impious in his luſts. And *Pauſanias* telling of a Father who meeting his Son in *Charon's* boat did then attempt to ſtrangle him, to revenge his impiety and diſobedience, by this does repreſent what their ſentence was concerning the reſentment of rebellion of Sons and their undecent ſtubbornneſſe even after death. lib. 10.

4. And this is of ſo much the greater regard, if the Father charges it upon the Son upon his bleſſing, and with great imprecations: for then unleſſe the Father be evidently a light or trifling perſon, there is to be ſuppoſed ſome great reaſon for the impoſition, and then nothing can warrant the laying it aſide, but a great neceſſity, or a very great, good, and certain reaſon to the contrary; that is, ſuch a cauſe as may make the contrary effect to be infinitely unlike any image of impiety or diſregard. But of this parents alſo muſt be very cautious, and not to put a load of duty upon a trifle that ought not to bear it. For he is fooliſh that upon his bleſſing will command his Son to make much of his Sparrow or his Monkey; and that Son is prodigal of his Fathers bleſſing, that will venture it all to pleaſe his humor, and his itch of liberty.

Rule VII.

Neither the Father's authority, nor the Sonnes piety can oblige them to doe an action againſt the laws of God, or of the Father's and our juſt Superior.

1. THis Rule although it ſeems to contain in it nothing but what is ordinary and confeſſed, becauſe God is rather to be obeyed then Man, and amongſt men the ſupreme rather then the ſuperior; yet I have here deſcrib'd it, becauſe the explication of it will not onely contain one great meaſure of our duty and conduct of conſcience, but it will give the full general proportion of the Fathers power and the Sons piety, and alſo very much endear the obedience and piety of children.

2. When *Bias* had diſcourſed well and wiſely that God was preſent in every place, he ſoon after argued weakly; If God dwels in all places, his preſence makes all places holy, for it is his preſence that hallows a Temple, and then there can be no ſuch thing as ſacrilege; for a thief that robs a Temple cannot carry it out of a Temple, but by carrying it into another.
lib. 2. cap. 7. And upon ſuch a trick as this ſome in *A. Gellius* did argue that we were not to obey our parents. For either they command that which is good, or that which is not good: If of it ſelf it be good, then for it's own ſake we are to doe it, not for their command; but if it be not good, then though they doe command it, it is not to be done at all. For theſe men ſuppoſed, there is neceſſity and holineſſe in every lawfull action, as the other did ſuppoſe there was holineſſe in every place of Gods abode. But this Sophiſtry is quickly diſcover'd. For beſides that every thing is not neceſſary to be done becauſe it is good, but many are left to our choice to doe or not to doe them, there are many things alſo which are not good in themſelves, but onely become ſo when they are commanded. In both theſe caſes the authority of our parents is competent. For if they be in themſelves good but not neceſſary, by the command of our parents they are made neceſſary and paſſe into a law. But if they be not good of themſelves, but when they are commanded become good, then alſo they become neceſſary. *A. Gellius* inſtances, *in militiam ire, rus colere, honores capeſcere, cauſas defendere, uxorem ducere, uti juſſum proficiſci, accerſitum venire*, to goe into the country or to ſtay in the city, to live at court or to live in your farm, to take up armes or to be a merchant, to marry a wife, and to come when you are called, and to work in the vineyard, theſe things of themſelves are inno-
Idem ibid. cent and harmleſſe, but not neceſſary of themſelves; *propterea in ejuſmodi omnium rerum generibus patri parendum eſſe, In all things of this nature we are to obey our Father.* But adde this alſo, that if it be of it ſelf a duty, and of that nature that it ought to be done *ſive imperet Pater, ſive non imperet, whether his Father command or no*, yet even here alſo the Fathers command is of great authority and great effect; for it addes a new law to the old commandement, and therefore the diſobedience is guilty of a new ſinne.

But

3. But in things dishoneſt and impious the Father hath no authority to give a commandement; and if he does, the children are bound not to obey. If the Father commands the Son to marry a wife, to plead a cauſe for the guilty, *obſequendum eſt*; there is no more to be ſaid, the Father muſt be obeyed. But if he command the Son to marry a harlot, an impudent woman, a drunkard, or to be an advocate for *Catiline* or *Clodius*, for *Ravillac* or *Guido Faux*, he is not to be obeyed, *quoniam accedente aliquo turpitudinis numero, deſinunt eſſe per ſeſe hæc media & indifferentia*, When any turpitude is mingled with the action, it is no longer indifferent, or ſubject to command. And therefore we find *Acrotatus* commended among the ancients becauſe when his parents had requir'd of him to doe an unjuſt thing, he anſwer'd, I know that you are willing I ſhould doe that which is juſt, for ſo you taught me to doe. I will doe therefore that which you deſire I ſhould, but what you bid me I will not doe. A. Gell. ibid

4. And yet if a Father commands an unjuſt thing, his Authority is not wholly nothing. For firſt, though it muſt not be obeyed, yet it muſt not be diſhonour'd, nor yet rejected but with great regard. *Quædam eſſe parendum, quædam non obſequendum*, ſaid ſome in *A. Gellius*. *Sed ea tamen quæ obſequi non oportet, leniter & verecunde, ac ſine deteſtatione nimia, ſine opprobratione acerba reprehenſionis declinanda ſenſim, & relinquenda eſſe dicunt, quam reſpuenda.* What is not fit to be obeyed, muſt be declin'd and avoided rather then rail'd at and rejected with reproach. *Etiam in bona cauſa filii apud parentes debet humilis eſſe oratio*, ſaid *Salvian*. When a Son denies his Father he muſt doe it with the language of obedience. Such as was the anſwer of *Ageſilaus* to his Father when he would have had him to give judgement againſt the laws, *A te, Pater, à puero didici parêre legibus, quamobrem nunc quoque tibi obtempero, cavens nequid faciam præter leges*, Thou haſt from my childhood, O Father, taught me to obſerve the laws; therefore even now alſo I obey your command, becauſe I take care not to break them. For whatſoever the command be, yet the authority is venerable; if the command be unholy, yet the perſon is ſacred. *Liberto & filio ſemper honeſta & ſancta perſona Patris & Patroni videri debet*, ſaid *Ulpian*, The perſon of a Father is always honeſt and venerable to the Son, and ſo is that of a Patron to his freed man. Plutarch. lib. de Vitioſ. verecund.

5. 2. Though the command is not to be obeyed in things diſhoneſt, yet that then alſo the Fathers authority hath in it ſome regard appears by this, that if a Son tranſgreſſes the law by the command of his Father, his puniſhment is ſomething the more eaſy upon that account, though the offence be great, *l. fin. de bon. damn.* But if the offence be little, he is wholly excus'd ſaith the law, *l. liberorum. §. fin. & ſeq. de his qui no. infam.* Thus if a Son by the command of his Father marries a widow within the year of mourning, he does not incurre infamy by the law, ſay the Doctors. *Velle enim non creditur qui obſequitur Imperio Patris vel Domini*, ſaith the law; and *Venia dignus eſt qui obtemperavit*, ſaith *Ulpian*: If he did obey the command of his Father, he is to be pardon'd, it was not his own will; that is, not his abſolutely, but in a certain regard, and in a degree of diminution.

6. 3. The Fathers authority hath this effect alſo upon children, that if the Father does wrong, the Son muſt bear it as long as it can be born: and

therefore the Son may not goe to law with the Father, and complain of him to the Judge, without leave from both their Superiors. For if by any means the Son can make the Father leſſe then he is, it will deſtroy all duty, and diſpark the incloſure which Nature and the laws have made with fear and reverence. But this hath a double conſideration, the one in Religion, and the other in Laws.

7. 1. In Religion we are to conſider not onely what is lawfull in the preciſe queſtion, but what is to be done in the whole complication and practice of it. For if the Supreme can give leave in ſome caſe for a Son to complain of his Father to a Judge, then in ſome caſes it may be lawfull to doe it, that is, in thoſe caſes in which the law hath ſpecified and reſtrain'd the Paternal power, in thoſe things which the laws call exceſſes and injuries, and which indeed in themſelves are cruel and intolerable. For in ſuch caſes the laws are a guard and defence to the oppreſſed Son; concerning whom although it is ſuppos'd that the Father takes ſufficient care to keep him harmleſſe, yet if the Father does not, the law does: and the law does indeed allow the greateſt power to Fathers, becauſe it preſumes it will be for the childs good; but becauſe there are ſome perſons whom no preſumption can meaſure, who are wicked beyond all the uſual temptations and infirmities of mankind, therefore even in extraordinary caſes there muſt be ſome proviſion; and therefore it is not to be ſuppoſed that it ſhall for ever be unlawfull for Sons to complain of their Fathers to the Prince. But what thoſe caſes are we can be taught by nothing but by the laws themſelves, and by our own natural neceſſities. We muſt cry out when we cannot forbear, and we muſt throw off the burden under which we cannot ſtand; onely we muſt not throw it off as a wild horſe does his load, and kick it with our feet, but we muſt lay it as gently down as we can. Thus if a Father refuſes to give alimony to his Son who cannot be otherwiſe provided for, the aid of the Prince or any ſuperior that can rightly give us remedy may be implor'd. If a Father beats his child till he lame or diſmember him, or endanger his life, the Son can be remedied, and without breach of duty can implore it. So long as a child is in his Fathers houſe, and under his Fathers power, theſe are the onely cauſes in which he can be allowed legally to complain: becauſe in all other things he is intirely under his Fathers power. But when he is emancipated, and quit from his direct authority, which the Lawyers ſignify by the power of *Caſtigation*, then the Son hath diſtinct rights, and in them becauſe he can be injured, there are more cauſes of difference. To this therefore the anſwer is,

8. That in matters of contract, in little injuſtices, in any thing that is tolerable, in ſuch things the ſuffering of which can conſiſt with charity to our ſelves and piety to our relatives, if a Son does conteſt with his Father at law, it may be it is no proper act of diſobedience, and there is nothing of rebellion in it againſt his juſt authority; but there is alſo as little of piety; eſpecially if we conſider that ſuch conteſts at law are extremely ſeldome manag'd with ordinary charity, and never without the greateſt reproach on one ſide, and ſcandal on both: and if the Son can ſecure that on his own part, yet whether that ſeeming undutifulneſſe, and more then ſeeming want of pious and loving regard, may not exaſperate the Father into angry curſings and evil thoughts, is a conſideration of religion which ought to be taken care of by all that would be Innocent. There is not one of a thouſand

ſand that goes to law at all but he runs into ſo many temptations that it is very hard for him to doe right and to doe nothing that is wrong: but not one in ten thouſand can juſtify his cauſe and his perſon too, if he goes to law with a Father. And he will for no cauſe ſuffer wrong at any mans hands that will take no wrong of his Father; and he that does ſo, will give but an ill account of his Chriſtianity.

9. 2. And theſe things appear the more by reaſon of the open diſlikes which the Law profeſſes againſt ſuch proceedings. For look at this thing in Law, and we find that the laws expreſſe the Sons obedience in univerſal termes; *Omnibus quæ Pater imperat parendum,* Sons muſt be obedient to their Parents in all things. Now if the diſpute be betwixt our obedience to God or to our parents, it is an ill caſe; we know whom we are to obey, but the diſpute it ſelf is not good; and the very making a queſtion of either is a diſadvantage to the honour of both: and therefore the Law, which never ſuppoſes a queſtion to be between God and our Father, does not think it fit to make this to be any exception to her indefinite termes; and therefore *Tiberius* ſaid it without a limitation, *Filium non poſſe detrectare juſſa Patris*; and *Turnus* againſt *Tarquin* ſaid ſummarily and clearly, *Nullam breviorem eſſe cognitionem quam quæ inter Patrem & Filium, pauciſque verbis tranſigi poſſe; Ni pareat Patri, habendum infortunium,* Between a Father and a Son the proceeding is ſhort, and the caſe quickly ſumm'd up; Either let the Son obey, or let him be puniſh'd. And the law accounts it a diminution of ſuch ſupreme authorities, to have exceptions and reſervations expreſs'd in the firſt proviſions of the law; and the very making God and the Father to be the oppoſite and compar'd perſons in the queſtion, is to leſſen them both. *In comparatione perſonarum ineſt læſio & injuria,* ſay the Lawyers; There is ſome wrong done when you compare two Eminencies. Therefore in this caſe, if ever any ſuch thing does happen, without diſpute we know what we are to doe: but it is not good that the laws ſhould take public notice of it beforehand. * But if the queſtion be between the Father and the Son, the law is ſo great an enemy to all ſuch queſtions, right or wrong, that the law judges for the perſon of the Father, even when it does not like the cauſe. It does ſo in the caſe of all Superiors in ſome degree, and therefore much more in the caſe of Fathers. *Jus quod deprimitur, aufertur*; if you leſſen the authority, you take it away; and then you doe injury, though by doing of right. When *Accia Variola* queſtion'd her Fathers Teſtament, becauſe he had left immoderate Legacies to her Mother in law, the Fathers of rich families were preſent in great numbers, and the Sons of thoſe families attended for the ſentence in great and anxious expectations, looking which intereſt ſhould get the advantage. But the Judges very wiſely left the caſe undetermin'd, becauſe it was hard on the Fathers ſide; but they were reſolved never to leave a precedent in which the children ſhould be in any thing ſuperior to their Fathers: or that as Death and Love chang'd their quivers, ſo old age ſhould be reckon'd as void of Counſel, and wiſedome and prudence ſhould be the portion of yong men.

Rule VIII.

It is not lawfull for Children to enter into any laſting Courſe of life againſt the will or approbation of their Parents.

1. THis Rule contains two great Caſes. The firſt is concerning the ſtates of Religion; the other is concerning the ſtates of Civil life.

2. 1. *It is not lawfull for children to take them any religious vows*, or enter into any of thoſe which are called *ſtates of Religion*, viz. to take upon them the ſtate of ſingle life, to be Prieſts, Monks, Friers, Hermits, or any thing of the like nature, *without the conſent of their Parents.*

3. *Thomas Aquinas* entred into the *Dominican* Order, and became a Frier without the conſent of his parents: and that unjuſtifiable action begat a more unjuſtifiable doctrine, *Poſt annos pubertatis poſſe liberos ſe voto religionis obligare, abſque voluntate parentum*, That after 14 years of age or the firſt ripeneſſe, it is lawfull for children to take upon them the vows of Religion, whether their parents be willing or unwilling. And after his time it grew into a common doctrine and frequent practice; and if a Monk could perſuade a yong heir, or a pregnant youth into their cloyſters, they pretended to ſerve God, though certainly they ſerv'd themſelves, and diſſerv'd a family. The ground they went upon was, the pretence of the great ſanctity of the ſtate Monaſtical; that it was for God and for religion; that to ſerve God no man that can chuſe hath need to ask leave; that if the Father be ſuperior, yet God is the ſupreme; that it is *Corban*; that if the yong man or maiden be given to God, he is given to him that hath more right to him or her then his parents; that religion in all things is to be preferr'd; and that although the parents have a right over the bodies of their children, yet of their ſouls they are themſelves to diſpoſe, becauſe theirs is the biggeſt intereſt and concern: and whereas God hath commanded to Honour our Father and Mother, we know that God is our Father, and the Church is our Mother; and what does accrue to theſe, is no diminution to the others right.

2. 2æ. qu. 88. art. 9.

Bellar. l. 2. de Monachis, c. 36.

4. Againſt all theſe fair pretences it is ſufficient to oppoſe this one truth, That Religion and Piety cannot of themſelves croſſe each other, but may very well ſtand together, and nothing is better then to doe a neceſſary duty. And there needs not much conſideration to tell which is better, to make our love to God and our love to our Parents, and our duty to them both to ſtand together, or to fight one with another. God intends the firſt, that is certain, for he is not the author of diviſion, nor hath he made one good contrary to another. For if one be ſet up againſt another they are both ſpoiled. For that duty that goes away is loſt; and that duty which thruſt it away hath done evil, and therefore is not good. If therefore it be poſſible to doe our duty to our parents and to love God greatly at the ſame time, there needs no more to be ſaid in this affair, but that we are to remember

member that a man may greatly ſerve God, and yet never be a Frier or a Prieſt; and that allowing or ſuppoſing that theſe are great advantages, or rather engagements of duty, yet it is certain that no ſtate of perfection can be ſet forward by doing evil; and he enters ill into the ſtate of perfection that paſſes into it by the door of Undutifulneſſe.

5. Now then, we are certain of this, that Parents have the firſt right, and the firſt poſſeſſion, and that to diſpoſſeſſe any one of his rights againſt his will is great injuſtice, and therefore that no end can ſanctify it; and that it would be a ſtrange religion which teaches impiety for pious conſiderations: and therefore without further inquiry, it follows that a Son may not upon any pretences of a religious manner and circumſtances of life ſubduct himſelf from his Fathers power, and put himſelf under other governments with which his Father ſhall have nothing to doe. A Son hath no power over himſelf, for he belongs to and is under the power of another; & therefore if he does ſubduct himſelf, he is undutifull, and impious, & unjuſt, and does not Honour his Father and his Mother. But he that does perſuade the Son from his Fathers houſe into a Monaſtery, is *reus Plagii*, he is a Man-ſtealer. *Qui Patri eripit filium, educatori alumnum, Domino ſervum, Deo efficit impium, educatori ingratum, Domino nequam*, ſaid *Tertullian*, He that debauches a Son, a Pupil, or a Servant, and ſnatches them from their Father, their Guardian, or their Lord, makes them impious, ingratefull and vile. And becauſe this was done by ſome upon pretence of piety, the Council of *Gangra* forbad it upon a curſe. *Quicunque filii à parentibus prætextu Divini cultûs abſcedunt, nec debitam reverentiam impendunt illis.... anathema ſint.* Pretence of the Divine ſervice is no good warranty for diſobedience to parents; and they who ſo neglect their Fathers bleſſing, will meet with the curſe of their Mother. And this Canon was cited and renewed in the ſixth Council of *Conſtantinople*. * The Council of *Tribur* forbids expreſſely a yong maiden before twelve years of age to enter into a Monaſtery without the conſent of her Guardian. *Gratian* citing this Decree, addes ſomething of his own; for it is not known whence he had it, except from the degenerous and corrupt practices of his own times. *Si vero in fortiori ætate adoleſcens vel adoleſcentula ſervire Deo elegerit, non eſt poteſtas parentibus prohibendi*, If the yong man or maiden be of greater age, the parents have no power to forbid him: which is a clauſe which is not to be found in the Codes of Councils, in any editions old or new. But when Monaſtical life had reputation and ſecular advantages upon religious pretences, then the advocates and promoters of it were willing by right and wrong to ſet it forward. But the corruption is plain, and apparently againſt the doctrine and practices of the Fathers of the Church.

adverſ. Marcion.

Can. 16.

6. S. [a] *Ambroſe* and S. [b] *Auſtin* ſay that a Father or Mother ought not to hinder a ſon or daughter from entring to a Monaſtery. But then, things were ſo ordered that the entry thither was not a perpetual bond, but a going thither as to a Chriſtian School, a place for inſtitution and holy practice, and from thence they might return when they would, they might ſerve God and their Parents too: the profeſſion of a Monk was then nothing elſe but *priſcæ liberaque vitæ ac pure Chriſtianæ meditatio*, a meditation and inſtitution of a Chriſtian life according to the rate of the Primitive ſimplicity, liberty and devotion. But beſides this, though they exhort parents not to hinder their children, yet they affirm that they have power to doe it,

[a] lib. 1. de Virgin.
[b] Epiſt. 109, 110.

S. Aug. Epiſt. ad Boniface. Comit.

and they may if they will; as appears amply in S. *Auſtin*'s Epiſtle to *Ecdicia*, and in his 233. Epiſtle to *Benenatus*. But moſt plainly and dogmatically it is affirm'd by S. *Baſil*, *liberos non eſſe recipiendos in Monaſteriis, niſi à parentibus ſuis offerantur*, *Children are not to be receiv'd into Monaſteries unleſſe their parents preſent them*: and when S. *Gregory Nazianzen* had againſt his Fathers commandement run into a Monaſtery, he began to bethink himſelf what he had done, and found that without impiety he could not be contumacious againſt his Father, and therefore left his ſolitude and return'd home. *Et hoc facio* (ſaith he) *juſſu Dei magis quam hominum metu. Itaque, O pater, dicto jam audienti præbo benedictionem.* This he did in obedience to God, and not for the fear of men; and therefore upon the account of his obedience and return, he begg'd his Fathers bleſſing. But beſides this, there were two remarkable examples which abundantly conclude this duty. * The one was of *Heliodorus*, who together with S. *Hierom* had undertaken a Monaſtical life by vow; but finding that by Piety and Nature he was to regard his onely ſiſter and her ſon, he return'd to her houſe, and took upon him the habit of the Clergy, and left that of Monks. Againſt him S. *Hierom*, who was then a yong man, newly come from the Univerſity and the ſchools of Rhetoric, ſtorms very much, and ſaies ſome things which when he was older and wiſer he changes and revokes, as appears in his Epiſtle to *Nepotian*, where he imputes his former ſayings to his juvenile years and learning. Now though *Heliodorus* had no parents when he undertook a Monaſtical life, and therefore had his liberty; yet it is therefore certain he believ'd he ought not to have done it without the conſent of parents if they had been living, becauſe he did ſuppoſe a leſſe Piety, even to his Siſter and his Nephew, to be a ſufficient reaſon for him to leave his ſolitude and ſhew Piety at home. * But the other inſtance is more material. *Stagirius* was made a Monk, not againſt his Fathers commandement, but againſt his Counſel. The Father was very unwilling, but durſt not expreſſely forbid it, upon ſome ſcruples which were put into his head by the humors which were then beginning. But becauſe he had neglected his Fathers Counſel, and caus'd trouble to him, *Stagirius* was vexed with the Devil, and S. *Chryſoſtome* took great pains to comfort him. But afterwards the manners of men grew worſe, and all religion was incloſed in a Friers habit, and it grew to be eſteemed excellent to enter into a Monaſtery, and whatſoever did hinder it was to be deſpis'd, or us'd like a temptation; and the Orders of Religion grew potent and prevail'd over private intereſts and private religion, and by degrees it enter'd into unſufferable miſchiefs and impiety. It was ſometimes reſtrain'd by good laws, ſo that it could not grow ſo faſt, *Charles* the Great made a law concerning it: *De pueris verò ſine voluntate parentum ut tonſurentur, vel puellæ velentur, modis omnibus inhibitum eſt*, Boys muſt not be ſhorn nor maidens vail'd without the conſent of their parents. And to the tranſgreſſors of this law a fine was impos'd, the ſame with that which was appointed in the *Salic* law *; which did equally forbid them to be ſlain and to be ſhorn. For by religious pretences not to doe kindneſſe to their parents our Bleſſed Saviour called hypocriſy in the Phariſees; and therefore upon the like pretences to doe them wrong, to take their right from them, to diſpoſſeſſe them of their deareſt pledges, muſt needs be ſo much the worſe. It is that which our Bleſſed Saviour calls *Hypocriſy*, and *diſhonouring our parents*: It is that which the Church does call an *anathema*, which the Laws call *plagium*, or manſtealing: It is *homicide* in the account of the Imperial laws: and S. *Bernard* calls

in quæſt. fuſe explic. q. 15.

libr. de Providentia.

lib. 5. cap. 95.

* *tit. de iis qui pueros vel puellas occiderint, vel totonderint.*

calls them *wolves* that doe it, in his firſt Epiſtle, which, as the ſtory runs, was not written without a Miracle.

7. The other great caſe is in the Marriage of their Children, concerning which the ſentence is ready and acknowledged in the greateſt part of it.

* * *

2. *It is unlawfull for Children to marry without and againſt the conſent of their Parents.*

That ſuch marriages are not *licitæ* is confeſs'd on all hands; that is, the ſon or daughter ſin againſt God and the laws, by marrying againſt his Fathers Commandement.

Adeóne impotenti animo eſſe, ut præter civium Terent.
Morem atque legem, & ſui voluntatem patris,
Tamen hanc habere ſtudeat, cum ſummo probro?

ſaid he in the Comedy. It is diſhonourable, and a ſhame to take a wife againſt the will of his Father; it is againſt the manners and the laws of all Republics. But whether they be *legitimæ* or no is a great queſtion; that is, whether they be wholly invalid and null in law, or in caſe they be valid, whether or no they ſuffer any diminution, and what it is.

8. Amongſt the Ancients, and for a long time in the Civil law, ſuch marriages were eſteem'd *illegitimate*, and no better then a meer Concubinate. So *Ovid* intimates in the marriage of *Pyramus* and *Thisbe*;

——Tedæ quoque jure coiſſent,
Sed vetuere patres——

If the parents had not forbidden, the marriage had been legitimate; but therefore not then when they are forbidden: and therefore as inceſtuous marriages were not onely Impious but Null, they are not onely ſinfull in the entry, but all the way; ſo are theſe, alike evil in all the progreſſion, though as yet they have not a proper name in law, as the other have. But *Apulcius* is more expreſſe; *Impares nuptiæ, & præterea in villa ſine teſtibus & Patre non conſentiente factæ, legitimæ non poſſunt videri, ac per hoc ſpurius iſte naſcetur. Unequal marriages, clandeſtine, and made without the Fathers conſent can never ſeem legitimate, and therefore the children that are born will be illegitimate.* And *Muſæus* obſerves in the marriage of *Leander*, that it was ominous and unlucky upon this reaſon, becauſe lib. 6. de Aſino aureo.

Οὐχ ὑμήναιον ἄεισε πατὴρ καὶ πότνια μήτηρ,

The Father and the Mother did not ſing the Hymenæal or Marriage ſong. The ſame thing was obſerv'd alſo by the Chriſtians; for when *Tertullian* is recounting the auſpicious ſignes and cauſes of a bleſſed marriage, he puts this in, *Unde ſufficiam ad enarrandam felicitatem ejus Matrimonii quod Eccleſia conciliat, & confirmat oblatio, & obſignatum Angeli renunciant, Pater rato habet?* That marriage will be very proſperous which is bleſſed by the Church, made ſolemn by publication and the rituals of religion, and eſtabliſh'd by the conſent of the Father. For without it it is not onely inauſpi- ad Uxorem.

cious

cious and unlucky, but illegal, unfirm and inſufficient. *Nam nec in terris filii ſine conſenſu Patrum ritè & jure nubent,* ſaith he. For he liv'd in a time when the law pronounc'd ſuch marriages illegal, and the children baſtards. For as ſome contracts are invalid unleſſe the ſolemnity of the law be obſerved, and Teſtaments are ineffective without ſuch a number of witneſſes; ſo the law requires the conſent of Parents to make the eſpouſals to be a legal and valid contract. *Non videri juſtum filium qui ex eo Matrimonio natus eſt cui Pater non conſenſit,* ſaid *Paulus* the Lawyer: and this went ſo farre, that if a daughter were expos'd by her Father like a child of the people, and no care of her education or alimony taken, yet before the time of *Conſtantine*, that daughter might not marry without the leave even of that unnatural Father. And amongſt the children of *Abraham* this was ſo ſacredly obſerved, that even there where by the event of things we perceive that the marriage was deſign'd by God, yet it was not to be acted but by the Fathers willingneſſe; as appears in the caſes of *Iſaac* and *Rebecca*, *Sampſon* and his wife at *Timnath*. Thus *Agar* took a wife for her ſon *Iſhmael*, and *Jacob* went into *Meſopotamia* for a wife by the conſent of his Father and Mother; and *Sichem* ask'd of his Father *Hemor* that he would get him the daughter of *Jacob* to wife. And the words of the Law were directed to the Father, not to the Son; *Non accipies Uxorem filiis tuis de filiabus eorum, & filiam tuam non dabis filio ejus*: and in the New Teſtament, *He that giveth his Virgin in marriage doth well*: ſtill it is the Parent that hath the right and the power; it is the Parent that can make the contract; he is the perſon ſuppos'd onely competent in law.

Ibid. l. 2. in fi.

ff. de ſtatu hominum.

Geneſ. 24.

Judges 14. 2, 4.

Exod. 34. 16. Deuter. 7. 3. 1 Cor. 7.

Andromach. Eurip.

Νυμφεύμάτων μὲν τῶν ἐμῶν πατὴρ ἐμὸς
Μέλλων ἔξει, κ' οὐκ ἐμὸν κρίνειν τάδε,

ſaid *Hermione* in *Euripides*, *My Father is to take care of my eſpouſals; that's no part of my care or determination.* And S. *Ambroſe*, by the example of *Rebecca*, ſaid that the choice of a husband for his daughter is to be permitted to the Father.

lib. de Patriarch.

9. And indeed by theſe inſtances and the perpetual practice and perſuaſion of the old world we cannot ſuppoſe it to be leſſe then a Natural law, or a natural reaſon, of great effect, or of great neceſſity. When the daughter of *Cyaxarus* was ask'd whom ſhe would marry, ſhe anſwer'd, *Cyrus*; for when they were children together he had delighted her with pretty ſongs and converſation: And when ſhe was offer'd to him with a royal robe, Jewels and a crown of gold, and all *Media* for her dowry, *Cyrus* anſwer'd, *Et genus & puellam & dotalia laudo, I like the Lady, her dowry and her family*, but I muſt have theſe agree with the mind of my Father and my Mother, and then I will marry her. For (as *Panægyris* in *Plautus* told his ſiſter) *in Patris poteſtate eſſe ſitum liberorum matrimonium, quibus faciendum hac in parte ſit quod Patres imperant, Childrens marriage is in the power of their Father, and they muſt doe what their Father commands*: and *Simo* would not allow *Pamphilus* to call him Father, when he diſobey'd him in this particular,

Xenoph. lib. 8. in Stich.

Andria, Act. 5. Scen. 3.

Quid, mi Pater? quaſi tu hujus indigeas Patris.
Domus, Uxor, liberi inventi invito Patre.

But *Pamphilus* in deſpite of his paſſion, ſuffered his duty to prevail,

Tibi, Pater, me dedo: quidvis oneris impone, impera.
Vis me Uxorem ducere? hanc vis amittere? ut potero feram.

Pamphilus

Pamphilus offer'd to quit *Glycerium* if his Father pleas'd, and yet he had been contracted to her, and had a Son by her. Certain it is, theſe contracts were to all purpoſes invalid by the Civil law both of the *Greeks* and *Romans*. *Nuptias conſiſtere non poſſe niſi conſentiant omnes, hoc eſt, qui coeunt, quorumque in poteſtate ſunt*, ſaith the Law, *Inſt. de Nuptiis. ff. de ritu nuptiarum*. And in the *Jus Græco-Romanum* there is an expreſſe Canon, *Qui in aliena poteſtate ſunt eorum pacta nihil habent firmi: propterea quæ citra voluntatem nuptiæ fiunt eorum penes quos poteſtas eſt, pro ſcortationibus habentur*. This is peremptory. Such marriages are fornications, and therefore the children are Baſtards. And of this *Juſtinian* gives this account, *Juſtas nuptias inter ſe contrahunt qui ſecundum præcepta legum coeunt, Thoſe marriages are true which are confederated according to the precepts of laws, when the contractors are of fitting age, whether they be the chief, or the ſons of families. Onely if they be ſons of families, they muſt have their conſent in whoſe power they are. Nam hoc fieri debere, & civilis & naturalis ratio ſuadet, in tantum ut juſſus parentum præcedere debeat. For that this ought to be done, that the Fathers conſent muſt be before the marriage, not onely is concluded by civil or political reaſon, but alſo by the natural.*

in reſpons. Matrimon. Matth. Monachi.

10. Thus it was in the Natural and in the Civil law; and at firſt, and for a long time after, it was no otherwiſe in the Canon law. To this purpoſe is that famous Decree of Pope *Euariſtus*; *Aliter legitimum non ſit conjugium niſi ab iis qui ſuper ipſam fœminam dominationem habere videntur, & à quibus cuſtoditur, uxor petatur, & à parentibus & propinquioribus ſponſetur, & legibus dotetur. Euariſtus* had enumerated a great many things which were fit (as he thought) and much for the honeſty and decency, the bleſſing and proſperity of the marriage; as attending to ſolemn prayers for two or three days, oblations and bridemen, and ſome other things which are now out of uſe: he proceeds to that which was eſſentiall to the contract, the conſent of parents; and *aliter legitimum non ſit, it cannot otherwiſe be legitimate*: and he addes, *aliter verò præſumpta non conjugia, ſed adulteria, vel contubernia, vel ſtupra aut fornicationes potius quam legitima conjugia eſſe non dubitatur*, Marriages without the conſent of parents are adulteries and raviſhments, fornications and concubinate, any thing rather then marriages. To this accords that Canon of S. *Baſil*, *Puellis quæ præter Patris ſententiam fornicatores ſecutæ ſunt reconciliatis parentibus videtur res remedium accipere: ſed non protinus ad communionem reſtituentur, ſed triennio punientur*. If Fathers will pardon their daughters that without their leave run after wanton perſons, their crime as to him ſeems to be taken off; yet let them be put for three years into the ſtation of Penitents. Upon this Canon *Theodorus Balſamon* ſaies, that by [*Puellis*] or *Girles*, S. *Baſil* "means thoſe that are under their Fathers power: and that if any ſuch "give themſelves up to their lovers without their Fathers conſent and are "diſhonour'd, although they to themſelves ſeem to be married, yet ſuch "marriages are not valid, they cannot ſtand: and for this there is no remedy "but being reconcil'd to their Fathers. But S. *Baſil* is alſo as expreſſe himſelf in his text as *Balſamon* in his Commentary, for in his 40.[h] Canon he "ſaies that marriages without the conſent of them in whoſe power they "are, are fornications and not marriages. And therefore the Council of *Carthage* requires that when the bridegroom and his bride are to be bleſſed by the Prieſt, that is, ſolemnly married, they ſhould be preſented to the Prieſt by their parents or their deputies; which thing is carefully to this day

& habetur 30. q. 5.

Can. 38. in Can. Patrum, in Græcor. Nomocan.

et habetur 32. q. 2.

day obſerved in the Church of *England.* For according to the ſaying of S. *Leo*, *Paterno arbitrio fœminæ viris junctæ carent culpâ* ; If maidens be joyn'd to their Husbands by the conſent of their parents, there is then nothing but innocence, no body hath cauſe to complain. But that's not all. For *Gratian* expounding theſe words, ſaies that from hence [*datur intelligi quod Paternus conſenſus deſideratur in nuptiis, nec ſine eo legitimæ nuptiæ habeantur*] *we are given to underſtand that the Fathers conſent is requir'd, and without it the marriages are not to be accounted legitimate :* and for it he quotes the words of *Euariſtus* before mention'd. But the Council of *Aquiſgrane* did not onely ſeparate ſuch marriages when the maiden was ſtoln away without her parents leave, but would not allow that ever after they ſhould be man and wife, as we find in *Burchard* ; and the ſame was verified in the Council of *Melda*, which for it's warrant quotes a ſynodal definition of S. *Gregory* to the ſame purpoſe.

in tit. de fœmin. non conſecrat. cap. 33, 36. q. 2. placuit.

11. The Church was indeed very ſevere againſt ſuch undutifull proceedings and rebellions againſt the ſupreme natural power ; and therefore the Council in *Paris* & divers others did anathematize them that ſo married, & even when they were reconcil'd to their parents did impoſe on them ſevere penances. But becauſe when things were once come to that paſſe, Fathers perceived that the reputation of their children was loſt, and that it was not eaſy to get other honeſt Matches for their children, and eſpecially when Marriage began to be called a Sacrament, and ſome ſcruples were by the Clergy caſt into this affair, and becauſe men were willing to make the beſt of a bad Market ; the Fathers gave over making uſe of this power given them by the laws, and thought the public penances were caſtigation ſufficient. But then according to the nature of all good laws and manners running down the hill, this thing never left running till children had leave to deſpiſe their parents, and marry where and when they pleas'd; and though it was ſaid to be a fault, yet *factum valet, fieri non debuit*, it was decreed in the Council of *Trent* to be valid and effectual.

Ibid. Vide etiam Concil. Pariſ. 36. q. 2. 27. q. 2. nullus.

12. But now this ſentence which indeed relies upon ſome reaſon and very great authority, and is wiſe and fit to prevent much evil in families, is yet very ſevere, and ought to receive ſome allay ; which when I have repreſented upon the general conſideration, I ſhall endeavour to give it a right underſtanding, and deſcribe the truth that lies between the two extremes, and was yet never affirm'd and deſcrib'd by any one that I know of, but is determinable by a juſt weighing of all that which very many wiſe men have ſaid, being put together.

13. Firſt therefore I conſider what *Quintilian* ſaid: "If it be lawfull at any "time for a ſon to doe an action otherwiſe unreprovable without the con- "ſent of parents, certainly liberty is in nothing ſo neceſſary as in marriage. *Ego eligam cum qua victurus ſum, ego comitem laborum, ſollicitudinum, curarum ipſe perpendam. Quis enim amare alieno animo poteſt ?* It is fit that I ſhould chuſe her or him with whom I muſt always live, the partner of my joys and ſorrows, the companion of my cares, the Father or the Mother of my own children : for it is impoſſible that a man ſhould love with any affections but his own. And if *Pamphilus* can love none but *Glycerium*, it will be hard for *Simo*, whoſe fires are extinct by age, to command his ſon to burn and pine away without remedy and pitty. It was better which *Pauſanias* tells

Declam. 257, & 376.

lib. 3. in Laconic.

tells of *Danaus*, that he gave his daughters leave to chuſe their husbands; and *Herodotus* tells that *Callias* the *Athenian* was much commended by the *Greeks* becauſe he permitted to his daughters to chuſe what husbands, not he, but themſelves lik'd beſt. in Erato, l. 6.

14. But the caſe is to be determin'd by theſe three Propoſitions.

1. *When ſons or daughters are of competent years and have the uſe of reaſon, they can naturally contract marriages*; that is, there is nothing naturally requir'd but that they can conſent, and be of a marriageable ſtrength. *Sufficiat ſolus conſenſus illorum de quorum, quarumque conjunctionibus agitur*, ſaid *Clement* the third, Conſent alone makes marriage; that is, it makes a marriage naturally valid, if it be done by thoſe perſons who naturally can conſent. c. tuæ. de Sponſ. extr.

For that the conſent of parents is not eſſentially neceſſary to the validity of the contract naturally, appears in many inſtances. 1. Becauſe children can contract when their parents are dead. 2. Becauſe if their Father be dead, and their Mother living, the ſon that is of years of diſcretion is not under his Mothers power as to that, but that upon great and good reaſon he may marry by his own choice. 3. A ſon may marry at the command of a Prince, when it is for the public good, though his Father at the ſame time regard nothing but his private. 4. If a Father ſay nothing to hinder it, though he be ſecretly unwilling, or owns the unwillingneſſe, but behaves himſelf negatively as to any cooperation, yet the ſon may marry: which demonſtrates that the Fathers conſent is no active principle, ingredient into the marriage, but a privative or a negative onely; that is, he can forbid it, and ſo hinder it, but it is not therefore naturally invalid; that is, he can legally prevent it, but not naturally annul it. 5. If the marriage of the ſon be not onely of regard and advantage to the ſon, but ſo far from doing injury to the Father, that it does him honour; the laws declare that ſuch a marriage is valid, though the Father out of humor diſagree. And therefore when the law ſaiês that the ſon cannot contract marriage but with his Fathers conſent, the Doctors limit it amongſt other caſes to this eſpecially, *quando filius duceret uxorem turpem & indignam*, when the ſon marries diſhonorably; for then (ſay *Bartolus* and *Decius*) there is injury done to the Father: ſo that the prohibition lying for this reaſon, when the caſe is contrary to the reaſon, the extraordinary effect muſt be contrary to the ordinary law. vide Aſcanium Clement. Ametin. de patria poteſt. cap. 6. effect. 6.

6. Whatever the law decrees in deteſtation of childrens diſobedience, yet the marriage though to ſome civil effects it is null'd, yet that it is naturally valid appears in this, becauſe the ſon that is born of that marriage is the Grandfathers own, and if the Father die before the Grandfather, the Grandchild muſt inherit. So that the puniſhment is but perſonally on the Son, and is not a perfect invalidating of the marriage. l. Divi fratres. ff. de jure patron.

And this very caſe was determin'd in the Parliament of *Harlay* in behalf of *Marguerite de Neſdes* her children, the Nephews of her husbands Father, in the year 1584. 7. If the Father be unreaſonable, and offers to his ſon or daughter an ugly, a deform'd, a vitious or a baſe perſon, and gives him no other choice, and the ſon cannot contain and live a ſingle life, by the conſent of all men the ſon may refuſe, and he cannot but chuſe another. 8. The ſame is the caſe, if the Father be negligent; then by the law a ſon ſooner and a maiden after 25. years of age can chuſe for her ſelf. l. Filius 25. ff. de ritu Nuptiarum.

* *An ſedere oportuit domi virginem tam grandem?* ſaid *Phalaris*. Πᾶσι γὰρ ἀνθρώποις ἀίχιστον δέδοχται, ἢ νὴ Δία ἔξω παρὰ τὴς φύσεως χρόνους ἐνεγκοῦσα. For it is intolerable that a maid ſhould be ſuffer'd to paſſe the l. 3. §. Emancipatus. ff. de cont. tab. *Phalar. Epiſt. 143.

cap. 9. flower of her age at home. And when the *Gemara Sanhedrin* had ſaid [Doe not proſtitute thy daughter, to make her a harlot] *Rabbi Eliezer* ſaid this was ſpoken to him that marries his daughter to an old man. *R. Akiba* ſaies, it was meant of him *qui domi retinet filiam nubilem*, that keeps his daughter at home too long. Which two laſt caſes relying upon the ſame reaſon produce the ſame effect, That the Fathers conſent, though highly to be requir'd, yet is not eſſentially neceſſary; it may be a valid marriage without it. 9. And this is true alſo in caſe of Emancipation *, or quitting the Son from the Fathers power; he is *ſui juris*, and can marry where he will, and yet he owes to his Father all the obedience to which by the law of Nature he was obliged. 10. If a Son marries without his Fathers conſent, the law ſaies it is void; but yet it is not ſo void, but that the Fathers approbation makes it valid without marrying again: which could not be if it were naturally invalid, but therefore it is both naturally and Eccleſiaſtically good. *Quod enim ab initio malè factum eſt, parentum poſtea conſenſus reparare videtur*, ſaid *Balſamon*: it was ill done at firſt, and the Fathers conſent repairs the dammage; but if it was invalid and null at firſt, nothing can make it alive upon the firſt ſtock. *Quod enim ab initio non valuit, progreſſu temporis valere non debet*, ſaith the law. 11. Servants or ſlaves in the Civil law were as much in the power of their lords as ſons in the power of their Fathers; as much I ſay, though not for ſo many reaſons; and yet the marriage of ſervants was valid in law though contracted without the conſent of their Lords; as *Pope Alexander* the third wrote in a decretal Epiſtle to the Arch-biſhop of *Canterbury*: and therefore that the marriage of ſons and daughters may be ſo too, that is, not to be diſſolved, not to be declar'd null in conſcience, I can find no reaſon to the contrary. 12. We find in Scripture that *Eſau*'s marriages were valid and went on, though contracted againſt the intereſt of that family, the pleaſure of the parents and, as *Lyra* ſaies, without their conſent. It is true indeed that the *Jeruſalem Thargum* ſaies that they were a grief to *Iſaac* and *Rebecca* becauſe they were undutifull, and proud, and idolatrous, refuſing to be taught by their Husbands Father or Mother. But when I conſider that it is not onely affirmed by *Rebecca* that they were an affliction to her, but obſerv'd at the very firſt taking of them in, that they were a grief to both of them, and that *Eſau* afterwards to gratify his Father did marry his Coſen german, the daughter of his Uncle *Iſhmael*; the opinion of *Lyra* ſeems moſt probable, and that *Iſaac* and *Rebecca* did not conſent, and were not pleas'd with thoſe firſt marriages. But if this ſhould fail, there are arguments enough beſides to evince that naturally ſuch marriages are valid, though at no hand they ought to be done.

* Ulpian. l. 3. §. ſi emancipatus. ff. de bonor. poſſeſſ. contr. tabulas. Hoc obſervant Graeci ad l. 10. de ſponſal. l. 28. βασιλικ. tit 1.

in Can. Paſil. 38.

in Can. PP.

C. 1. extra. de conjug. ſervor.

Gen. 26. 35.

15. But what then ſhall we ſay to all the former diſcourſe, which prov'd that thoſe marriages were illegitimate, and the conjunctions no better then concubinate? Does all that heap of things, and ſayings of wiſe men, and laws Eccleſiaſtical and Civil and Natural, effect nothing? or doe they prevail intirely? That they effect ſomething their own ſtrength does evidence; that they doe not prevail to effect a natural nullity in marriage, the contrary arguments deſcrib'd in the former Number doe ſufficiently prove. What then is the concluſion?

16. From hence we may learn it. 2. *Although the marriage is naturally valid, yet that natural validity can have this effect onely, that it can for ever bind*

bind the conſcience of the engaged parties to faith and mutual love, and to cohabitation when it is not hindred; and it is, even when it is moſt of all forbidden, yet potentially legitimate, that is, it wants no features and lineaments, nor life, but it wants ſolennity and publication; that is, it is like an Embryo in his Mothers womb, there it muſt ſtay till the law gives it name and birth. * For it is to be conſidered, that although the yong folks can contract even againſt their parents will, yet they can be hindred from poſſeſſion: Not onely becauſe natural rights can be impeded in their uſe and challenge by the Supreme Civil power; but becauſe there is in marriage ſomething that is wholly in the power of the Civil law. For in marriage there are three things, *Unity*, and *Society*, and *Myſtery*. This laſt is not of preſent conſideration, becauſe it is wholly of ſpiritual nature, and therefore of Eccleſiaſtical cogniſance. But of the other two, the firſt is in the power of the Contractors, the latter is in the power of the Common-wealth. From union of minds, and obligation of mutual duties and affections, and perpetuity of relations they cannot be kept by their diſſenting parents, or by the Civil law. But from being a ſociety, from beginning a legal family, from rights of ſucceſſion, from reckoning deſcents in their line, and from cohabitation they can be kept by that power which is the Supreme in the eſtabliſhment and conduct of all ſocieties. And the conſequent of this will be, not onely that ſuch perſons ſhall looſe all civil benefits and profits of inheritance, that is, all that can come from *Society*, but even their very *Unity* will be diſparag'd, ſo as it ſhall be eſteem'd no better then fornication; not that it is ſo before God, or is againſt the vertue of Chaſtity, but that it is ſo in the Civil account, and is againſt the laws of Marriage. It is in this as it is in the caſe of *Raptus* or Raviſhment. In the Civil law, he that takes away a mans daughter without the conſent of her parents *rapuiſſe dicitur* is a Raviſher: but it is not ſo in the Canon law, it is not ſo in Nature or Conſcience. *Raptus ibi dicitur admitti ubi nihil ante de nuptiis dicitur: If there was no treaty of marriage, it is a rape*; but if the man was ſecretly betrothed, to carry her away and lye with her is no rape, *licèt parentes reclamarent, although the parents were againſt it*, ſaid Pope *Lucius* the third. Now to call this a rape, and to puniſh it as if it were, is in the power of law: juſt as the ſtealing of a knife out of a Church, or a Chalice out of the Clercs houſe, may by law be called Sacrilege; and then it is ſo to all the purpoſes of law; though before God it may not differ from ſimple theft. So for yong lovers to lye together before publication is by the Canon law called *Antenuptialis fornicatio*, and is puniſhed as if it were ſo indeed: and yet though it be evil in the eye of men, and upon that account is ſo in it ſelf, yet in the eyes of God it is not fornication; God himſelf having expreſſely called a *Betrothed woman* by the name of *wife*, and puniſh'd her falſhood to her husband before marriage with the ſame evil as adultery. And thus it is in the preſent inquiry: Marriage of perſons in minority is naturally invalid, becauſe they are naturally unable to make a contract for their good, they underſtand it not; but if they be of good years, though under their Fathers power, they are naturally able, but politically unable, and therefore are inevitably engag'd in an evil condition, and they have ſinn'd, and it is a miracle if they doe not ſin again, and abide in it upon this account. For the marriage is good within doors, but it is not good abroad: they are both oblig'd, and yet cannot pay their obligation: this marriage is not good in law, and yet they cannot chuſe another in conſcience: it was by their own fault, and therefore they muſt bear

C. cum cauſam. de rapt. extra.

Deuter. 22.

their own burden: they are guilty of fornication, but it is not a ſin againſt the ſeventh Commandement: they have not diſhonour'd their own bodies between themſelves, but they have diſhonour'd them before all the world beſides. And as *coveteouſneſſe* is *idolatry*, and *rebellion* is *witchcraft*, ſo *this diſobedience* is *unchaſtity*, it is *uncleanneſſe* againſt the *fifth Commandement*: and therefore it is no legal marriage, but unlawfull at firſt, and remains ſo all the way, till a legal remedy be found out. For this thing is rightly ſtated by *Paulus* the Lawyer: *Matrimonia hæc jure non contrahi, ſed tamen contracta non ſolvi, Such marriages ought not to be made, but being made they cannot be diſſolved.* And he gives an excellent reaſon for it; *contemplationem enim publicæ utilitatis privatorum commodis anteferri.* It is of public concern that marriages naturally valid be not reſcinded; but it is but of private emolument that the Father ſhould be pleas'd in his daughter in law: and therefore although the * Law of God and man doe their ſeveral ſhares for the ſecuring of every intereſt and concern, yet that regard which is greateſt and more public is to be preferred. Now for the underſtanding of the full effect of this, and for the verification of it, it is to be conſider'd, that laws are called *Perfect*, or *Imperfect*. A perfect law is that which either in *it ſelf* or by *the Magiſtrate* reſcinds whatſoever was done againſt her preſcript. *l. Non dubium, C. de legib.* The imperfect law is that which does not indeed reſcind the thing, but inflicts a puniſhment upon the tranſgreſſors: ſuch as was the *lex Furia Teſtamentaria*, and ſuch as is the law concerning theſe forbidden marriages againſt their Fathers will; the Marriage muſt ſtand, and the married muſt lie under the puniſhment *: they in the civil law were reckon'd as Concubines, and their Children baſtards, and there was neither dowry nor marriage allowed. And upon this account, all thoſe ſayings which I brought in the former numbers † are true: the marriages were then civilly null, that is, in eſtimation of law and to all intents and purpoſes of law were outlawed, and made uncapable of civil benefits and advantages; but the law could not make them naturally null: and in the Law of *Moſes*, although a maiden that had been humbled was to become the wife of him that did it, and to have her dowry accordingly, if her Father pleas'd, and he might chuſe whether he would or no; yet there is no footſtep or ſigne, that if he had betrothed himſelf to her, and lyen with her, that then ſhe was not his wife, or that her diſſenting Father could make it null. Indeed divorces were ſo eaſily granted then, that even in this caſe they had a remedy at hand: but we are tied up by ſtricter and more holy bands; and ſince Chriſt reduc'd it to the firſt inſtitution, and that it was made to repreſent the union of the Church unto him, it is not ſo eaſy to untie this knot. So much as is in the power of law, ſo much is fit to be done for the ſecuring the Fathers authority and his rights according to the intereſts of religion and the public: but the laws themſelves have a limit; and though they can verify all their own acts, yet they cannot annul the Act of God: *Quæ Deus conjunxit, nemo ſeparet.* Conjunction of marriages is by a law of God and Nature, and to it nothing is requir'd but a natural capacity and an explicit conſent, and therefore this no man can ſeparate. But yet,

lib. Sentent. 2. tit. 19. Idem dixit ventus ſcholiaſtes ad *Paulum.*

* Exod. 22. 16, 17.

* *O ſententiam neceſſitate confuſam! parcit & ſaevit, diſſimulat & animadvertit.* Tertull. 18, 9, 10, 11.

† Exod. 22.

17. 3. The Father hath over his children a double power; a natural power and a political. His Natural power is intire, abſolute, and unlimited, except where the Law of God or of Nations does intervene; but then it laſts but till the children are able to underſtand and chuſe, and ſhift for themſelves. For there are ſome natural and perſonal rights relating to duty, to the perpetuating

tuating the kind, to defending and providing for themſelves, which are not to be taken from us, unleſſe they be as well or better ſupplied otherwhere; for ſome can, and ſome cannot. The deſires relating to marriage have in them ſo much natural neceſſity, and ſo much relation to perſonal duties, that either they muſt be in our own powers, or elſe our ſalvation muſt depend on other men. *Neſcis noſtri arbitris eſſe Matrimonia? Affectus noſtri nobis non ſervunt. Non poteſt efficere Imperio ut vel amem quam velis, vel oderim. Matrimonium vere tum perpetuum eſt, ſi mutuâ voluntate jungitur. Cum ergo quæram mihi uxor, ſocia thori, vitæ conſors, in omne ſeculum mihi eligenda eſt.* "My wife is to dwell with me for ever, the half of my ſelf, "my laſting joy or my laſting ſorrow, and if I doe not love her we cannot "live comfortably, and to love I cannot be commanded, for my affections "are not at my own command, much leſſe at anothers: and therefore the conduct of this belongs to my ſelfe, and to none elſe, for ſo much of the intereſt as the union and conjunction comes to; and in this I am no mans ſubject, when I am a man my ſelf. Quintilian. declam. 306.

18. But the Father hath a political power. *Patria poteſtas eſt jus quoddam quod habent qui ſunt de Imperio Romano in liberos Naturales & legitimos*, ſay the Lowyers. The paternal power is deſin'd by the meaſures of the *Roman* law; and ſo it is in all Countries by their own meaſures. Now in moſt Countries, eſpecially *of old*, the Father had ſo much power given to him over his children that they were a part of his poſſeſſions; they acquir'd what they did acquire for their Father, not for themſelves; they might be pawn'd, they might be ſold three times for their Fathers profit; they muſt laſt and abide under this power till they were diſmiſſed or emancipated by their Father. Now whatſoever rights were conſequent to theſe powers were ſo wholly to be diſpoſ'd of by the Fathers, that whatſoever actions of the ſons did deſtroy thoſe rights were ſo far, and in relation to thoſe rights, null and invalid. When therefore the Father had by the Civil law a power over the perſon of his ſon, ſo as to have the profit of his labours, the iſſues of his marriage, his children to ſucceed, the ſons wife to be partner of his goods and his holy rites, and to perpetuate his family, he had by the Civil law power to diſpoſe of him ſo far as concern'd theſe things, but no further. And therefore the Father had power to diſinherit the ſon that married without his Fathers leave; and all the Emperors and all the Lawyers till the time of *Conſtantine* did allow it: but then it felt variety and change, and it was limited to the caſe of the ſons marrying diſhonourably.

19. The reſult of theſe three Propoſitions is this, That every Commonwealth hath power to extend or to ſtrengthen the Fathers political power, & to give ſentences and judgements upon the actions that relate to ſuch power: and if the law does declare the children of marriages againſt the parents will to be baſtards, they are ſo; and the Son not to ſucceed in his Fathers eſtate, it muſt be ſo; and the marriage to be a concubinate, it muſt be accounted ſo; and the copulation to be inceſtuous, it muſt be called diſhonourable, and may be puniſhed as if it were ſo: and this muſt laſt ſo long till the ſon be by the ſame law declar'd not to be under his Fathers power as to that particular; and when it is ſo, he can then chuſe for himſelf without fraud or detriment; though even then alſo he hath upon him two bands, *Reverence* and *Piety*, from which the ſon can never be emanci-

their own burden: they are guilty of fornication, but it is not a ſin againſt the ſeventh Commandement: they have not diſhonour'd their own bodies between themſelves, but they have diſhonour'd them before all the world beſides. And as *covetouſneſſe* is *idolatry*, and *rebellion* is *witchcraft*, ſo *this diſobedience* is *unchaſtity*, it is *uncleanneſſe* againſt the *fifth Commandement*: and therefore it is no legal marriage, but unlawfull at firſt, and remains ſo all the way, till a legal remedy be found out. For this thing is rightly ſtated by *Paulus* the Lawyer: *Matrimonia hæc jure non contrahi, ſed tamen contracta non ſolvi, Such marriages ought not to be made, but being made they cannot be diſſolved.* And he gives an excellent reaſon for it; *contemplationem enim publicæ utilitatis privatorum commodis anteferri.* It is of public concern that marriages naturally valid be not reſcinded; but it is but of private emolument that the Father ſhould be pleas'd in his daughter in law: and therefore although the * Law of God and man doe their ſeveral ſhares for the ſecuring of every intereſt and concern, yet that regard which is greateſt and more public is to be preferred. Now for the underſtanding of the full effect of this, and for the verification of it, it is to be conſider'd, that laws are called *Perfect*, or *Imperfect*. A perfect law is that which either in *it ſelf* or by *the Magiſtrate* reſcinds whatſoever was done againſt her preſcript. *l. Non dubium, C. de legib.* The imperfect law is that which does not indeed reſcind the thing, but inflicts a puniſhment upon the tranſgreſſors: ſuch as was the *lex Furia Teſtamentaria*, and ſuch as is the law concerning theſe forbidden marriages againſt their Fathers will; the Marriage muſt ſtand, and the married muſt lie under the puniſhment *: they in the civil law were reckon'd as Concubines, and their Children baſtards, and there was neither dowry nor marriage allowed. And upon this account, all thoſe ſayings which I brought in the former numbers † are true: the marriages were then civilly null, that is, in eſtimation of law and to all intents and purpoſes of law were outlawed, and made uncapable of civil benefits and advantages; but the law could not make them naturally null: and in the Law of *Moſes*, although a maiden that had been humbled was to become the wife of him that did it, and to have her dowry accordingly, if her Father pleas'd, and he might chuſe whether he would or no; yet there is no footſtep or ſigne, that if he had betrothed himſelf to her, and lyen with her, that then ſhe was not his wife, or that her diſſenting Father could make it null. Indeed divorces were ſo eaſily granted then, that even in this caſe they had a remedy at hand: but we are tied up by ſtricter and more holy bands; and ſince Chriſt reduc'd it to the firſt inſtitution, and that it was made to repreſent the union of the Church unto him, it is not ſo eaſy to untie this knot. So much as is in the power of law, ſo much is fit to be done for the ſecuring the Fathers authority and his rights according to the intereſts of religion and the public: but the laws themſelves have a limit; and though they can verify all their own acts, yet they cannot annul the Act of God: *Quæ Deus conjunxit, nemo ſeparet.* Conjunction of marriages is by a law of God and Nature, and to it nothing is requir'd but a natural capacity and an explicit conſent, and therefore this no man can ſeparate. But yet,

lib. Sentent. 2. tit. 19. Idem dixit vetus Scholiaſtes ad *Paulum.*

* Exod. 22. 16, 17.

* *O ſententiam neceſſitate confuſam! parcit & ſævit, diſſimulat & animadvertit.* Tertull.

† 8, 9, 10, 11.

Exod. 22.

17. 3. The Father hath over his children a double power; a natural power and a political. His Natural power is intire, abſolute, and unlimited, except where the Law of God or of Nations does intervene; but then it laſts but till the children are able to underſtand and chuſe, and ſhift for themſelves. For there are ſome natural and perſonal rights relating to duty, to the perpetuating

tuating the kind, to defending and providing for themſelves, which are not to be taken from us, unleſſe they be as well or better ſupplied otherwhere; for ſome can, and ſome cannot. The deſires relating to marriage have in them ſo much natural neceſſity, and ſo much relation to perſonal duties, that either they muſt be in our own powers, or elſe our ſalvation muſt depend on other men. *Neſcis noſtri arbitrii eſſe Matrimonia? Affectus noſtri nobis non ſerviunt. Non potes efficere Imperio ut vel amem quam velis, vel oderim. Matrimonium vero tum perpetuum eſt, ſi mutuâ voluntate jungitur. Cum ergo quæratur mihi uxor, ſocia thori, vitæ conſors, in omne ſeculum mihi eligenda eſt.* "My wife is to dwell with me for ever, the half of my ſelf, "my laſting joy or my laſting ſorrow, and if I doe not love her we cannot "live comfortably, and to love I cannot be commanded, for my affections "are not at my own command, much leſſe at anothers: and therefore the conduct of this belongs to my ſelfe, and to none elſe, for ſo much of the intereſt as the union and conjunction comes to; and in this I am no mans ſubject, when I am a man my ſelf. Quintilian. declam. 376.

18. But the Father hath a political power. *Patria poteſtas eſt jus quoddam quod habent qui ſunt de Imperio Romano in liberos Naturales & legitimos,* ſay the Lawyers. The paternal power is defin'd by the meaſures of the *Roman* law; and ſo it is in all Countries by their own meaſures. Now in moſt Countries, eſpecially *of old*, the Father had ſo much power given to him over his children that they were a part of his poſſeſſions; they acquir'd what they did acquire for their Father, not for themſelves; they might be pawn'd, they might be ſold three times for their Fathers profit; they muſt laſt and abide under this power till they were diſmiſſed or emancipated by their Father. Now whatſoever rights were conſequent to theſe powers were ſo wholly to be diſpos'd of by the Fathers, that whatſoever actions of the ſons did deſtroy thoſe rights were ſo far, and in relation to thoſe rights, null and invalid. When therefore the Father had by the Civil law a power over the perſon of his ſon, ſo as to have the profit of his labours, the iſſues of his marriage, his children to ſucceed, the ſons wife to be partner of his goods and his holy rites, and to perpetuate his family, he had by the Civil law power to diſpoſe of him ſo far as concern'd theſe things, but no further. And therefore the Father had power to diſinherit the ſon that married without his Fathers leave; and all the Emperors and all the Lawyers till the time of *Conſtantine* did allow it: but then it felt variety and change, and it was limited to the caſe of the ſons marrying diſhonourably. *i. jus autem poteſtatis. Inſt. de poteſt. Patr. & l. nam in civium. & l. item in poteſtate. ff. de his qui ſunt ſui & alieni juris.*

19. The reſult of theſe three Propoſitions is this, That every Commonwealth hath power to extend or to ſtreighten the Fathers political power, & to give ſentences and judgements upon the actions that relate to ſuch power: and if the law does declare the children of marriages againſt the parents will to be baſtards, they are ſo; and the Son not to ſucceed in his Fathers eſtate, it muſt be ſo; and the marriage to be a concubinate, it muſt be accounted ſo; and the conjunction to be uncleanneſſe, it muſt be called diſhonourable, and may be puniſhed as if it were ſo: and this muſt laſt ſo long till the ſon be by the ſame law declar'd not to be under his Fathers power as to that particular; and when it is ſo, he can then chuſe for himſelf without fraud or detriment; though even then alſo he hath upon him two bands, *Reverence* and *Piety*, from which the ſon can never be emanci-

pated as long as he lives, and as long as he can be obliged to be a thankfull perſon, ever remembring what the old *Sibyll* ſaid, that they deſerve damnation

> ..... *quive parentes*
> *In ſenio linquunt, neque præmia digna rependunt*
> *Pro Nutricatu, vel qui parere recuſant,*
> *Aſpera vel contra dixerunt verba parentes,*

who leave their parents in their old age, who ſpeak words againſt them, who doe not pay their thankfull duty for their alimony and education, and who refuſe to obey them, viz. according to the laws, and according to the exigence of reverence and piety which muſt be for ever.

Of exemption from the power of Fathers.

20. For by this means we ſhall the ſhorteſt and trueſt anſwer the inquiry, when a Son is free from his Fathers power, and how long he is τῆς πατρονομίας ἀνάγκαις ὑποκείμενος, as *Demoſthenes* his expreſſion is, *ſubject to the neceſsity of the Fathers laws.* I anſwer that, in thoſe things which are parts of natural power and relate to perſonal duties, the Father hath always *a power of Counſel*, which muſt be regarded by the ties and analogies of *reverence* and *piety*, and the reaſons of the things themſelves. But in thoſe powers which the law hath given him, he is to abide in them as long as the law permits; for in this there is no other meaſure but the law. But in theſe and all other things whatſoever, when by *nature* and *the laws* we are quit from the Empire of the Father, and that power which is called *Caſtigation*, or the power of command and coercion, we are ſtill tied to fear him with a reverential fear, and to obey him with the readineſſe of piety in all things where Reverence and Piety are to have regard and prevail, that is, where-ever it is poſſible and reaſonable to obey. *Quæ prærogativa ex beneficentia acquiritur perpetuo durat*, ſaid *Ariſtotle*, *The authority that is acquir'd by bounty is perpetual.*

in Encomio.

21. And therefore even Marriage it ſelf does not quit the children from their duty: Not onely by force of Civil laws, in which ſenſe the ſons wife was in the Fathers power as well as the ſon himſelf till he was emancipated; but I mean it in reſpect of reverence and pious regards, and natural duty, and humble obſervation. For *Nomen Patris grande Myſterium eſt, & nomen Matris arcana Reverentia*, ſaid *Origen*; there is Reverence, and there is myſtery, and all ſacredneſſe in the Names of Father and Mother; and that dignity laſts for ever. The Ancients tell that when *Danaus*, who had given liberty to his fifty daughters to marry according to their own liking, was compelled to give them to the fifty Grandchildren of *Ægiſthus*, he gave to each of them a ſword, and commanded them to kill their huſbands the firſt night before their congreſſe: and they thought themſelves, though married, oblig'd to obey their Father, and all did ſo but *Hypermneſtra*, who for her diſobedience was queſtion'd upon her life, and was by the equally-divided ſentences of the Judges acquitted. The like ſtory to this is told by *Chalcondylas*, that a daughter of a *Florentine* Phyſician being by the public requeſt and neceſſity of the Town given to *Lantiſlaus* an amorous Prince, who to get her beſieged the Town, her Father gave her a poy-

Homil. 11. in Levit.

ſon'd

ſon'd handkerchief which he commanded her to uſe upon the Prince; and ſhe did ſo, and upon her ſelf, and both died. Theſe indeed were exceſſes of power and obedience: but I noted them to ſhew that the ſenſe of the world is to ſuppoſe children oblig'd to their parents even when they are in the power of a husband, or in neceſſitude and conjunction with a wife. And this is extended alſo to daughters that are Widows, if they be in minority, that is under 25 years; for ſo it was in the *Roman* law; or, if under any other number of years which the law calls minority in any Government. Ἡλάττων τῶν εἴκοσι πέντε ἐτῶν αὐτεξουσία, μέλλουσα δ' ευπερογαμεῖν, γνώμῃ τοῦ πατρὸς γαμείσθω, *If ſhe will marry again, let her marry by the conſent of her Father.* In Baſilico.

22. 2. If a Son be a Magiſtrate, the Magiſtrate is exempted, but not the Son. That is, in thoſe things which concern his office and dignity the Father hath nothing to doe with him: but in things Oeconomical the Fathers power ſtands, and his perſon is capable of the ſame regards as formerly; *of all the ſame, Salvo honore Magiſtratus.* But yet the reverence of ſuch a Son to a Father ought to be no otherwiſe exacted then by the meaſures of prudence and cuſtome, and the common uſages of the place. When *Fabius Maximus* came to his Son who was then *Conſul*, and ſate upon his horſe, otherwiſe then he ought, his Son ſent the Lictors to him to call him to deſcend and come to him: and the old Man gladly obeyed, and told him, *Non ego Imperium tuum, mi Fili, contempſi*, I did not deſpiſe thy authority, but I tried if you knew how to be a Conſul: *nec ignoro quid Patriæ veneratione debeatur; verum publica inſtituta privatâ pietate potiora judico, I know what veneration is due to a Father; but the private regard muſt give place to the public laws.* And yet even in things of public nature, if a Father be wiſe, his Counſel ought to have ſome force beſides the reaſon. When the Tribunes of the people, who ſometime had Conſular dignity, contended which of them ſhould goe to the Warre againſt the *Lavicani* (for they all would fain have gone, but none would ſtay at home to take care of the city) *Quintus Servilius* commanded his Son to ſtay, and doe his duty at home; and he did ſo, for it was for the public intereſt that one ſhould, and the power of his Father determin'd him when they all refus'd at firſt. Vale. Max. l. 2. c. 2.

23. 3. If a Son enters into holy Orders, it does not quit him from his duty and obedience to his Father, unleſſe the law declare it ſo; that is, in ſuch things wherein the Fathers political power did conſiſt. And we find in that collection of Canons which is called Apoſtolical, it is decreed that if a ſervant take on him holy Orders againſt the will of his lord, there was a redhibition allowed; he was to return to his ſervice, till he was freed by his lord. The caſe is the ſame in Princes and in Fathers. Cap. 81.

There are four little Queres more for the finiſhing this Rule; the anſwers to which will be ſhort, becauſe they depend upon the former diſcourſes.

24. 1. Whether if the Grandfather be alive, and the Son be in his power, it be ſufficient to legitimate the marriage of the Nephew if the Grandfather conſent, though the Father be not ask'd.

25. To this the Lawyers anſwer with a diſtinction: If the Nephew marry a wife, the conſent of the Son muſt be ask'd; but if the Niece marry, l. oratione 16. §. 1. ff. de ritu nuptiar. l. 3. D. eod.

ry, the conſent of the Grandfather is ſufficient: and ſo it is if the Nephew marry in the ſame family, that is, the Niece by another ſon. The reaſon of the laſt is, becauſe the Fathers are ſuppos'd willing to doe advantage to their own family, and therefore it may be ſufficient that he who is in actual poſſeſſion of the Government ſhould explicitly conſent, and the other implicitely. But why to the marriage of the Niece the Grandfathers conſent ſhould be enough, but to the Nephew's marriage the Fathers conſent alſo be requir'd, the reaſon that is pretended is onely this, Becauſe no man ought to have his heir provided for him againſt his will, of which there is no danger in the marriage of a daughter. But in ſhort, though this was thus in the Civil law of the *Romans*, and was no more reaſonable then we ſee; yet now that it is a caſe of Conſcience I am to anſwer otherwiſe. For it is againſt Natural and Divine reaſon and laws that the Father ſhould in either of the caſes be neglected, who ought rather to be preferred, as he that is moſt and longeſt like to be concerned in the good and evil of the marriage.

26. 2. Whether if the parents have conſented and authoris'd the treaty of marriage till the affections of the children are irrevocably ingag'd, and afterwards retract that conſent, the children are bound to obey their parents, and quit their loves.

27. de clandeſt. Matrim. impreſſ. Pariſ. 1556. This I find in an elegant caſe related by *Gentian Hervet* in his oration to the Council. *Damoiſelle Vitrou* was eſpouſed to a Cavalier by her parents; but when he would have married her and carried her home to his friends, her parents, I know not upon what account, chang'd their minds and refus'd to let her goe. But the Souldier carries her away by force and marries her and lies with her, but us'd her ill; of which ſhe being quickly weary, flies into a Monaſtery; and that ſhe might not be drawn thence and forc'd to return under her bondage, ſhe pretends that he was not her husband by law, becauſe he forc'd her from her Fathers houſe againſt the will of her parents. To this it was anſwered in behalf of the husband, that ſhe who was eſpouſed legally, might be carried away by the ſpouſe lawfully, according to that of *Gregory*, and *Euſebius*, *Si quis virginem aut viduam furatus fuerit, niſi fuerit à ſe deſponſata, anathema ſit.* If ſhe was not eſpouſed, it is *Plagium & raptus, a rape and ſtealth*; but if ſhe was, it was no fraud to him. Now if this was no raviſhment, as it is plain, becauſe ſhe was eſpouſed, and ſhe was willing, though her parents were not, then ſhe was his wife, ſaies the Law; and if ſo, then the revocation or diſſent of the Father hindred not but that ſhe might proceed thither where ſhe was ingag'd. Now this caſe went farre indeed: But if it be not gone ſo farre, yet if it be gone thither from whence they cannot honeſtly or decently recede, the Fathers diſſent ought not to be a prejudice to the conſummation: for it began from an honeſt and a competent cauſe, it was a fire kindled from the Sun, and it proceeds to that which is honeſt in it ſelf; and therefore there is no evil done. But if the parties are unengag'd, or be indifferent, or can well retire, the firſt liberty did not let them looſe from duty, but that they are to abide there where they were, unleſſe (I ſay) by that firſt leave they are paſs'd beyond a fair return. For the affections and the great content of children is not to be plaid with, as with a tennis-ball; and it is in this as in his children, if he have begotten the affection unto life, he muſt maintain it at his own charge.

in Burchard. & in decretis.

Idem dixit Lucius 3. in C. cum cauſam de rapt. extra.

3. Whether

28. 3. Whether Mothers have the ſame authority over their children as the Fathers have.

To this I anſwer, that in the Civil law ſons were not in their Mothers power, but in their Fathers: *Appellare de nuptiis debui Patrem*; and *Euſtathius* upon *Homer*, Χρήσιμον ἦ ἐις τέλημα πατρικὸν ὅτι γάμῳ τὲ, ὡς αὐτὸς ἐέδνωσαιτο θυγατέρα. He that gives the dowry, it is fit that by his will the marriage be contracted. This is well enough, that the Father ſhould doe it: but it becomes the piety of children to endeavour that their Mother be pleaſed; for to her alſo there is the ſame natural relation, obligation and minority, and in all things they are equal, abating the privilege of the ſex; and therefore though the ſame duty is owing to them both, yet their authority is ſeverally expreſs'd, which to my ſenſe is well intimated by *Euſtathius*: ἐκ ἐξουσία πατρὸς, ἐ μητρὸς πειθὼ, ἀδ' εἰ τὴν Ἀφροδίτην ἀγάγωνται, *Not the power of my Father, nor the perſuaſion of my Mother, ſhould make me marry even* Venus *her ſelf.* Where the Mother is allowed onely the power of perſuaſion. But that alſo implies all her power, onely that is the moſt proper way for her exerciſe of it. And it is the moſt forcible. *Fuſſum erat, quodque eſt potentiſſimum Imperandi genus, rogabat, qui jubere poterat*, ſaid *Auſonius*. Οἷς γὰ ἂν ἐξῇ πράττειν ὅ, τι ἂν ἐθέλωσι σὺν βίᾳ, ὅπου δεόμενοι δυσωπεῖν, καὶ πείθειν ἀρχοῦσιν, ſaid *Julian* the Emperor. *For they that can if they pleaſe compel, ought moſt of all to prevail when they counſel and intreat.* But however things were in the law of the *Romans*, yet by the laws of nature Mothers, who have ſo great an affection to their children, and ſo great an intereſt in the good and evil reſpectively of their Son in law's or their Daughters manners, muſt with duty & tenderneſſe be regarded like the Fathers. Ὁ δὲ τὸν τῆ φύσεως νόμον ἐποιεῖτο θεραπεύων τὸ πρέπον Θεοβουλῷ, καὶ τὸν ἀνεπίληπτον τῇ μητρὶ γάμον Ῥεβέκκαν προσέταξε τῷ υἱῷ, ſaid S. *Cyril* of *Alexandria*: Conſonantly to the law of Nature he commanded his ſon to abſtain from ſuch marriages as were diſpleaſing to his Mother. *Iſaac* did ſo to *Jacob*. And to this purpoſe *Catullus* elegantly preſſes this obligation.

Seneca controv. l. 3. c. 5.

Iſmeniæ & Iſmen. 5.

Epiſt. ad Paulum.

Orat. 2.

in Geneſ. l. 4.

At tu ne pugna cum tali conjuge, virgo.
Non æquum eſt pugnare, Pater cui tradidit ipſe,
Ipſe Pater cum Matre, quibus parêre neceſſe eſt.
Virginitas non tota tua eſt: ex parte parentum eſt.
Tertia pars Matri data, pars data tertia Patri,
Tertia ſola tua eſt.——

Her Father and her Mother and her ſelf had in her ſelf equal ſhare.

29. But if the Father be dead, then the queſtion is greater, becauſe if the Mother have any power, ſhe hath it alone: when her Husband liv'd ſhe had power as the Moon hath light by the aſpect of the Sun; but now that her light is extinguiſh'd, hath ſhe any natural and proper power of her own? To this S. *Auſtin* anſwers clearly, *Fortaſſis enim quæ nunc non apparet, apparebit & Mater, cujus voluntatem in tradenda filia omnibus ut arbitror Natura præponit: niſi eadem puella in ea jam ætate fuerit, ut jure licentiore ſibi eligat ipſa quod velit.* From which words of S. *Auſtin* it is plain, that in the diſpoſing of her *daughter* in marriage by the voice of Nature the Mother hath a power; and this is rather, and more, and longer then in the diſpoſal of her *ſon*. The reaſon of both is the ſame, becauſe by the advantage of the ſex and breeding, the ſon will be fit to govern in the family; and at the ſame time the daughter hath the weakneſſes of feminine ſpirit upon

Epiſt. 233.

upon her as much as the Mother, and more by reaſon of her tender age and want of experience. To which may be added, that if the Father be dead, the eſtate is deſcended upon the Son, and then he is put by law under the power of Tutors and Guardians, and then is to marry, εἰ ἐπλούτησεν ὁ πατὴρ, γνώμῃ τῶν συγγενῶν, ſaies the law, *by the conſent of his Kindred* and Guardians; that is, if he be not come to maturity: but if he be, the rule is, *Filius quidem pubes nullius expectat arbitrium, filia verò Matris & propinquorum,* A ſon that is of a marriageable age if his Father be dead is wholly in his own power, but a daughter is under the power of her Mother. And yet this alſo laſts no longer but to a certain age, which is determin'd by the laws of every Nation reſpectively. And yet both the Son and the Daughter are to ſhew piety to their Mother, and not to grieve her. *Pulchre Deo obtemperat qui triſtis eſt Parenti,* for *he does ill ſerve God, that brings ſorrow to his parent.* And therefore the Ancient laws of the *Romans* were ever favourable to that part of the marriage which the Mother choſe. *Poſtulatu andito Matris Tutorumque, Magiſtratus ſecundum parentis arbitrium dant jus Nuptiarum,* ſaies *Livy.* But the *Wiſigoths* by their law were more kind to the Mothers intereſt, for *Patre mortuo utriuſque ſexus filiorum conjunctio in Matris poteſtate conſiſtat*; Both ſon and daughter if their Father was dead were in the power of their Mother, and were to marry by her appointment and counſel. And therefore *Simeon Metaphraſtes* commends *Abraham* for taking a wife at the command of his parents, μίαν τῶν ἐντολῶν ἡγούμενος τοῦτο εἰδώς, τῷ πατρὶ καὶ μητρὶ πείθεσθαι, *as knowing it to be one of the Divine Commandements to obey his Father and his Mother.* But theſe things were varied by laws and particular conſiderations. That which is of univerſal truth is this onely, That in their natural minority children are equally under the power of their Mother, as of their Father when he was alive; but when they can chuſe, they are ſooner quit from the Caſtigation or legal coercitive powers of their Mother, then of their Father if he had liv'd. And this relies upon the practice and conſent of all the world, and hath this reaſon, becauſe women are not by laws ſuppos'd very fit to govern laſting intereſts. But laſtly, they are never quit from their reverence and duty, piety and greateſt and kindeſt regards: but the Mothers diſſenting does not annul the marriage of her ſons that are of age; and it is ſo far from that, that their not complying with their Mother in this affair is onely then a ſin when it is done with unregarding circumſtances, or hath not in it a great weight of reaſon. But every child ſhould doe well to remember their obligation to their Mothers; and as S. *Chryſoſtom* ſaid in his own caſe, when he had a mind to enter into a Monaſtery his Mother recalled him, or rather the voice of God crying, *Fili colito Anthuſam,* Son remember thy Mother *Anthuſa,* and grieve her not as long as ſhe lives. For *Nomen Matris, arcana reverentia,* There is a ſecret veneration due to the very Name of a Mother.

l. filia. 20. C. de inoffic. teſtam. & Baſilic. lib. 28. c. 4. Conſtantin. Harmenopul. Epitom. l. 4. tit. 7. §. 12.

Liv. lib. 4.

lib. 3. tit. 1. §. 7.

in Abramio.

lib. 1. de Sacerdot.

Origen. ubi ſupra.

30. 4. Although a Fathers authority is ſuch that againſt it a Son may not marry; yet whether or no is the power of the parents ſuch that they can compel a ſon or a daughter to marry whom or when they will?

31. To this I anſwer, that in the matters of marriage eſpecially, and proportionably to the probable event of things in other laſting ſtates of life, that of *Ariſtotle* is very true, Ἡ μὲν οὖν παρικὴ πεῖσαξις οὐκ ἔχει τὸ ἰσχυὸν οὐδὲ τὸ ἀναγκαῖον, *The Fathers authority hath in it no neceſsity, no conſtraint*

Which

Which *Heliodorus Pruſæenſis* thus paraphraſes, The commandements of Fathers to their children τοῖς ἰσχνοῖς οὐχ οὕτω μεγάλως ἔχειν ὥστε βιάζεσθαι, *have not in them ſuch force that they can compel their children.* And therefore *Pamphilus* in the Comedy complains paſſionately, and yet reaſonably,

> *Proh Deûm atque hominum fidem! quid eſt, ſi non hæc contumelia'ſt?* Andria, Act. 1. Scen. 5.
> *Uxorem decrêrat ſeſe dare mihi hodie: nonne oportuit*
> *Præſciſſe me ante? nonne priùs communicatum oportuit?*

Upon which place *Donatus* ſaid well, *quia nuptiarum non omnis poteſtas in Patre eſt, All the intire power of marriages is not in the Fathers.* It may not be done againſt their wills, but neither is their will alone ſufficient. The Fathers have a negative, but the children muſt alſo like. *Conſtat enim circa nuptias eſſe filiis liberam voluntatem: ideo ſervatâ ratione pietatis communicatum oportuit,* ſaid *Eugraphius.* For it is certain they have the power of choice, and therefore in piety the Father ought to have acquainted the Son with it. And the ſame alſo is the caſe of the daughter, ſhe is not to be forc'd to marry againſt her inclination and affections. *Euſtathius* upon that of *Homer*, ᾧ πατὴρ κέλεται, καὶ ἀνδάνει αὐτῇ, ſaies πρὸς ἀκρίβειαν ἐρρέθη πολιτικῶν, it was ſpoken according to the exacteſt political meaſures, that the Father ſhould chuſe an husband for his daughter *Penelope*, and yet that his daughter ſhould like the yong Prince *Ulyſſes*; ὁ γὰρ δυλικῶς ὁ πατὴρ τῇ θυγατρὶ τὰ τοιαῦτα κελεύσει, ἀλλ' αἱρήσεται καὶ αὐτή. For there is difference between a ſervant and a child; the Father may chuſe for his daughter, ſo that at the ſame time ſhe may chuſe for her ſelf: and therefore (ſaies he) when *Homer* ſaid δοίη δ' ᾧ κ' ἐθέλῃ, he ſaies it in reſpect of the Father, that he may give her to whom he pleaſe; but when he ſaies καὶ ὅς κεν τῇ Πηνελόπῃ χαρίεσσα δόξαι, he ſaies it in reſpect of the Daughter, that the man whom the Father chuſes muſt be gracious in her eyes: ἐναργὲς παρὰ Ρωμαίοις ἄκυρον γυναῖκα κατηγυᾶσθαι ἀνδρί, ſaid *Priſcus*, *It is impious to marry a daughter againſt her will.* ad 'Οδυσ. β. in Eclogis legationum.

32. But this is to be underſtood with ſome reſtraint. For if a Father may chuſe, and the daughter may chuſe too, how if it happens that they fancy ſeveral perſons? ſhall the Fathers authority, or the daughters liking prevail? both cannot prevail at once: but the queſtion is, which ſhall, and when, and how long, or in what caſes. To this I anſwer that if the matter be indifferent, or the perſon be fit, the Father ought to prevail. *Patris quippe juſſa non potuiſſe filium detrectare,* A ſon may not refuſe his Fathers commandement. For the Fathers authority is certainly a very great thing; ἄρχων ὁ πατὴρ ἐστι τῷ παιδὶ καὶ δεσπότης ἐξ αὐτῆς τῆς φύσεως, *A Father is by Nature to his child both a Lord and a Prince:* and therefore *Theophilus* calls the Paternal power ἀρχὴν ἐξουσίαν, which is the title of the Royal Majeſty: and though the old name for diſobedience in the Scripture is *Witchcraft*, yet *Ennodius* would fain have found a new name for this kind of it. *Non invenio quâ novum facinoris genus explicem novitate ſermonum, quibus fuit Sacrilegium non parere.* It is Sacrilege at leaſt not to obey our parents. Now although this be ſpoken generally and indefinitely, yet it muſt have it's effect in ſuch commandements which have no great reaſon againſt them: and therefore if a Father offers a wife to a ſon, or a husband to a daughter, ſuch as a wiſe or a good man may offer without folly and injury, the child is not to diſpute at all, but to obey, if the Father urges and inſiſts upon the precept. Tacit. Annal. 3. Manuel Palæolog. orat. 7. ad §. 1. de his qui ſui vel alien. jur. Decam. 10.

But

33. But there are ſome caſes in which the Father ought not to urge the children. 1. If the children be not capable or able for marriage, if it be deſtructive of their health, or againſt his nature; and this excuſe was allowed amongſt the *Romans* even where the Paternal power was at the higheſt. *Solent qui coguntur à Patribus ut Uxores ducant, illa dicere, Non ſumus etiam nunc apti nuptiis.* It is not fit to require them to marry that hate, or are unable to doe the offices of that ſtate. 2. If the Father offer to his child a diſhoneſt or filthy perſon, unequal, or unfit; that is, when it is notoriouſly or ſcandalouſly ſo: when the perſon is intolerably and irreconcileably diſpleaſing, then the command is tyranny. The Son is bound to obey his Father commanding him to marry; *Sed enim ſi imperet uxorem ducere infamem, propudioſam, criminoſam, non ſcilicet parendum,* ſaid *A. Gellius*; But not if he offers to his child an infamous, a diſhoneſt perſon. And ſo the law provides in behalf of the daughter, that ſhe ought not to be compelled to marry an infamous man; *l. ſed quæ Patris, ff. de Sponſal.* and ſo *Harmenopulus* renders it, πότε ὃ μόνον ἀντιλέγειν δύναται [ὑπεξουσία *] ὅτε τοῖς τρόποις ἀνάξιον καὶ αἰσχρὸν ἀυτῇ μνηστεύεται, *She that is under her Fathers power can then onely refuſe her Fathers command, when he chuſes for her a man that is unworthy in his manners, and a filthy perſon:* and indeed in this caſe ſhe hath leave to refuſe the moſt Imperious command of an angry Father. Son and daughter in this have equal right: οὐδὲ νῦν γεγαμηκεν, ἀλλὰ καταναγκαζόμενος καὶ βιαζόμενος ἠρνήσατο: ſo *Lucian. Though his Father would have compell'd and forc'd him to marry a wife, yet he refus'd it:* and he might lawfully, when he offer'd him a ſtrumpet.

Senec. controv. 1. 6.

lib. 2. c. 7.

in dial. Meretr.

* *Matthæus Monachus legit* ὑπεξέσιοι, *ut filiũ etiam comprehendat: ſed malè, quia co loci fC. ſeparatim loquitur de filio & filia, & de filio controverſia non erat. Harmenopulo a conſentiunt* βασιλικὰ *lib.* 28. *tit.* 1.

34. But there is another ſort of perſons which are called *Turpes* filthy or hatefull; and that is, ſuch as are deformed and intolerably ugly. Μόνους γοῦν τοὺς μὴ καλοὺς ὀνομάζομεν αἰσχρούς, ſaith *Lucian, We call them filthy that are not fair or comely.* But in this ſenſe, if the Father offers a husband to his daughter, ſhe hath not liberty to diſſent, but onely to petition for liberty: for beauty is not the praiſe of a man, and he may be a worthy perſon, though of an ill ſhape, and his wit and manners may be better then his countenance. And there is no exception in this, but that if the daughter hath us'd all means ſhe can to endure him, and cannot obtain it, ſhe can onely then refuſe when ſhe can be ſure that with him ſhe can never doe her duty; of which becauſe ſhe cannot be ſure beforehand, becauſe his worthineſſe may overcome the aire and follies of her fancy, therefore the unhandſomeneſſe of a man is not alone a ſufficient cauſe for a daughter to refuſe her Fathers earneſt commands. But yet in this caſe though a Father have authority, yet a good Father will never uſe it, when it is very much againſt his Daughter, unleſſe it be alſo very much more for her good. But a Son hath in this ſome more liberty, becauſe he is to be the head of a family, and he is more eaſily tempted, and can ſooner be drawn aſide to wander, and beauty or comelineſſe is the proper praiſe of a woman; comelineſſe and good humor, *forma uxoria*, and a meek and quiet ſpirit are her beſt dreſſings, and all that ſhe can be good for in her ſelf; and therefore the uglineſſe of a woman will ſooner paſſe into an incapacity of perſon, then it can doe in a man. But in theſe caſes, as children ſhould not be too forward to diſpute the limits of their Fathers power, leſt they miſtake their own leave or their Fathers authority; ſo Fathers alſo ſhould remember what the

in Charidemo.

Lawyers

Lawyers ſay, *Patria poteſtas in pietate debet, non in atrocitate conſiſtere*, The Fathers power conſiſts not in the ſurlieſt part of Empire, but in the ſunſhine ſide, in the gentleſt and warmeſt part. *Quis enim non magis filiorum ſalutem quam ſuam curat?* ſaith *Tertullian.* He is an ill Father that will not take more care for the good of his child, then his own humor. l. D. Adrianus. ff. ad legem Pompeian. de parric. Adverſ. Marcion.

35. The like is to be ſaid in caſe the Father offers to his child a perſon of a condition much inferior. For though this difference is introduc'd principally by pride and vanity in all the laſt ages of the world, and Nobility is not the reward of vertue, but the adornment of fortune, or the effect of Princes humors, unleſſe it be in ſome rare caſes; yet now that it is in the humors and manners of men, it is to be regarded, and a Diamond is really of ſo much value as men will give for it: and therefore a ſon or daughter may juſtly refuſe to marry a perſon whoſe conjunction will be very diſhonourable and ſhamefull: but at little differences children muſt not ſtart. If the Nobility marries into the family of a Merchant, the difference is not ſo great, but that portion makes up the want of great extraction. For a huſband or a wife may be γενναῖος ἐκ βαλαντίου, *Noble by their wealth*, ſo the Greek proverb means: and old *Ennius* tranſlating of *Euripides* his *Hecuba*, makes wealth to be Nobility,

Hæc ita etſi perversè dicas, facile Achivos flexeris.
Nam cum opulenti loquuntur pariter atque ignobiles,
Eadem dicta, eademque oratio æqua, non æque valet.

apud A. Gell. lib. 11. c. 4.

When the rich and the ignoble ſpeak the ſame things, the rich man ſhall prevail when the ignoble ſhall not.

——κεῖνο δ' ἰσχύει μέγα
Πλοῦτος, λαβών τι τοῦτον εὐγλωσσὸς ἀνήρ.

Eurip. in Archelao.

Wealth makes nobility. And therefore in ſuch caſes, if the ſons or daughters refuſe the command of their Father, it is to be accounted rebellion and diſobedience. But this whole inquiry is well ſumm'd up in thoſe excellent words of *Heliodorus*, Εἰ μὲν γὰρ ἔδει τὸ τῆς ἀρχῆς ἀποχρήσασθαι νόμῳ, πάντως ἐξήρκει μοι τὸ βούλεσθαι. Βιάζεσθαι γὰρ οἷς ἔξον, τὸ πωδάνεσθαι ἄμεινον. Εἰ δὲ γάμος τὸ γινόμενον, τὸ παρ' ἀμφοτέρων βούλημα σωνδύειν ἀναγκαῖον. *If the Fathers will uſe the utmoſt power of law, it is enough for them to ſay, It is their will. And it is to no purpoſe to ask, where they have power to compel. But when there is a marriage to be contracted, it is fit that they both conſent.*

There are ſome inquiries relating to the title of this Chapter, which would be ſeaſonable enough here to be conſidered, concerning the powers of Husbands over their Wives: But becauſe the Matrimonial queſtions and caſes of Conſcience are very Material and very Numerous, and of all things have been moſt injur'd by evil and imperfect principles and worſe conduct; I thought it better to leave this to fall into the heap of Matrimonial caſes, which I deſign in a book by it ſelf, if God ſhall give me opportunity, and fit me with circumſtances accordingly.

CHAP. VI.

Of the Interpretation, Diminution and Abrogation of Humane lawes.

THERE are ſeven ways of the changing of humane laws ſo, that the obligation of Conſcience is alſo changed: 1. Equity, 2. Judicial interpretation, 3. A contrary, or a ceaſing reaſon, 4. Diſpenſation, 5. Commutation, 6. Contrary Cuſtome, 7. Direct revocation or abrogation. Of theſe I am to give account in this Chapter, that the Conſcience having already ſeen her obligation, may alſo diſcern when ſhe enters into liberty.

§. 1. *Of Equity.*

Rule I.

When the letter of the law is burdenſome and unjuſt, the meaning and charity of the law does onely oblige the Conſcience.

1. *Scire leges non eſt verba earum tenere, ſed vim ac poteſtatem; quia prior atque potentior eſt quam vox mens dicentis*, ſay the Lawyers, The mind of the law-giver is more to be regarded then his words. For words change, and things change; and our expreſſions ſometimes the more literal they are, the more obſcure they are, becauſe there are more words then things, and the circumſtances and appendages are the beſt commentary.

Leges perquam egregia res ſunt; ſed is qui legibus utitur
Nimium exacte, videtur eſſe Sycophanta, ſaid *Menander*.

It is not the office of a Judge or Prince, but of a Sycophant, to be exact in the uſe of his laws: but there is abatement and allay to the words by the purpoſe of him that ſpake them. For *Nullam rem neque legibus, neque ſcripturâ ullâ, denique ne in ſermone quidem quotidiano atque Imperiis domeſticis recte poſſe adminiſtrari, ſi unuſquiſque velit verba ſpectare, & non ad voluntatem ejus qui verba habuerit accedere*, For nothing can be rightly adminiſtred either in lawes, or common talk, in public or domeſtic Governments, if we regard the words more then the mind of him that ſpake them. There are ſome tacite exceptions in all laws that would not be tyrannical. *Quædam etiamſi nulla ſignificatione legis comprehenſa ſint, naturâ tamen excipiuntur*, ſaith *Quintilian*; Natural reaſon excepts ſome things which are not excepted in the law. And it was counted a fierce and cruel piece of importune juſtice in *Baſilius Macedo* the Emperor: when a ſtagge faſtned

Cicero lib. 2. de Invent.

faſtned his horn in the Princes belt and toſs'd him up with very much danger, one of his guard with a faucheon cut the Princes girdle and reſcued him from his ſad calamity; but he caus'd the poor man to be put to death, becauſe by the law it was capital to draw a ſword upon the Prince. The law could never intend to make it death to ſave the Princes life. Here was a neceſſity in this caſe; and if it had been like a fault, yet here it had been excuſable; for *neceſſity excuſes whatever it compels to.*

2. Now this happens in the matter of penal laws principally; for thoſe equities which are alleviations of duty, I ſhall conſider under the other heads: but in penalties it is not onely the charity but the juſtice of the law, that the ſubject ſhould neither be ſhared by an unwary or obſcure letter, nor oppreſs'd by an unequal puniſhment.

Quid triſtes querimoniæ,
Si non ſupplicio culpa reciditur? Horat. l. 3. od. 24.

Laws intend not to cut away the life or to pare away the goods of the ſubject, but to cut off his crimes, to reſtrain him from that which the law would not have him to doe. This in propriety of ſpeaking is *juſtice*: but *equity* although it ſignifies all that reaſonableneſſe by which the burden of laws is alleviated, and ſo will comprehend the ſix firſt heads; yet here I mean it in the particular ſenſe, that is, the eaſing of puniſhments, and the giving gentle ſentences; not by remiſſion of what is juſtly incurred, for that is *Clemency*, but by declaring the delated perſon not to be involved in the curſe of the law, or not ſo deeply; not to puniſh any man more then the law compells us; that's equity. And to this many rules in the law doe miniſter.

3. 1. *Non debet aliquis conſiderare verba, ſed voluntatem, cum non intentio verbis, ſed verba intentioni debeant deſervire*, ſaid the law. Which is thus to be underſtood; not that we are blindly to aime at ſome ſecret purpoſe of the law-giver, for the intention of man is to be judg'd by his words, and not the words by his intention. But the meaning is, that if ſome words be obſcure, they are to be made intelligible by others. *Incivile enim eſſe niſi totâ lege perſpectâ unâ aliquâ ejus particulâ propoſitâ judicare*, ſaies the law. We muſt in diſcerning the ſenſe of the law take in all together, the antecedents and the conſequences; and if darkneſſe be over all the face of the law, then the intention is to be judg'd by circumſtances, by the matter and the occaſion, by the ſtory and by uſe. *Intelligentia dictorum ex cauſis dicendi aſſumenda eſt*, ſaid S. *Hilary*. By the cauſes of the law we may judge of the intention of the law-giver. Cap. in his. de verb. ſignif. l. 4. ff. de legib. lib. 4. de Trinit.

4. 2. When the firſt ſenſe of the words inferres any abſurdity, contradiction, injuſtice, or unreaſonableneſſe, the mind of the law-giver is to be ſuppos'd to be otherwiſe, and the words are not to be adhered unto. *In ambigua voce legis ea potius accipienda eſt ſignificatio quæ vitio caret, præſertim cum voluntas legis ex hoc colligi poſſit.* The laws are ſuppos'd to be good, and therefore no evil can come from them, and if there does, that was not their mind; for, as *Cicero* ſaid rarely well, *Verba reperta ſunt, non quæ impedirent, ſed quæ indicarent voluntatem, Words were not invented to obſcure, but to declare the will, and therefore not the words but the will is to prevail; for if we could otherwiſe certainly and eaſily underſtand the Princes* l. 19. ff. de legibus. Orat. pro Cæcin.

will, we ſhould never uſe words. When *Leo Iſaurus* was in expectation of the Greek Empire, he dealt with two Aſtrologers that were Jews: they promis'd that the ſumme of affairs would fall into his hands, and he promiſed them to grant them any one petition they ſhould ask. When he had obtained his deſires, they deſir'd him that all the images of Saints might be demoliſhed: he granted their requeſt, but put them to death who put it in execution. This was againſt that mind of the promiſe which the Prince had or ought to have had, and he did not keep his *promiſe* though he kept his *word*; for it is not to be ſuppoſed that he promis'd or intended to reward them with a miſchief. So it is in laws, if an evil be conſequent to the obſervation of the letter, the intention is then wholly to be regarded; for *fraudem legi facit, qui ſalvis verbis legis, mentem ejus circumvenit*, ſaith the law, The law is then abus'd, when you keep the words of the law and prevaricate in the ſenſe and meaning.

Zonar.

l. contra. ff. de legib. & l. Non dubium. C. de legib.

5. 3. If the intention be gathered by circumſtances, by comparing of laws, by the matter and by appendages, and yet but obſcurely, the obſcure words are rather to be choſen then the obſcure intention. The reaſon is, becauſe words are the firſt and principal ſigne of the intention, and therefore ever to be preferred, and we are to ſeek no other, but when by accident theſe are hindred to ſignify: when the intention and the words doe differ, by what means ſoever the intention can rightly be found out, that muſt be ſtood to. *Ex lege eſſe tam quod eſt ex ſententia legis, quam quod ex verbis*; for that is law which is ſignified by the words, or by the cauſes and matter and circumſtances. But when in reſpect of the obſcurity on all hands the caſe is indifferent, we muſt ſtand to the words; for there is equity in that, that what is firſt in every kind, ſhould be preferr'd and be the meaſure of the reſt.

l. Nominis. ff. de verb. ſignif.

6. 4. Adde to this, that unleſſe it be manifeſt that the words doe not repreſent the intention of the law-giver, the conſcience of the ſubject is to obey the words of the law: ſo the law it ſelf ſaies expreſſely, *Non aliter à ſignificatione verborum ejus recedi, quam cum manifeſtum eſt aliud ipſum ſenſiſſe.* For if this rule were not our meaſure, every witty Advocate might turn laws to what purpoſe he pleaſe, and every ſubject would take liberty to ſerve his Prince not by the Princes law, but by his own gloſſes; and then our Conſcience could have no meaſure of duty, and therefore no ground of peace.

l. non aliter. ff. de legat.

7. 5. When there is and ought to be a little deflexion from the natural or Grammatical ſenſe, and this deflexion is evident and perceiv'd, we muſt ſtand to that ſenſe without any further deflexion, as ſtrictly as to the firſt natural ſenſe. That is, when a word in law ſignifies many things by proportion and analogy, but one is the principal, we muſt ſtand to that principal. As if a law ſaies, He that ſteals a Chalice from a Church, let him die the death; the word *death* muſt ſignify naturally, for the ſeparation of ſoul and body. But if by any other indication it appear not to ſignify in the firſt natural ſenſe, then it muſt ſignify in that ſenſe that ſtands next to it; it muſt ſtand, as the Logicians ſay, *pro famoſiori analogato*, and therefore muſt ſignify *a Civil death*, that is, baniſhment, or the diminution of his head by loſſe of liberty, according to the uſage of the laws. And when it is ſaid, The ſon muſt inherit, it is meant, not the natural but the legitimate;

or

or if not this, yet not the adopted but the natural, not the yongeſt but the eldeſt.

8. 6. If words us'd in law have a *civil ſignification*, by parity, by extenſion, by fiction of law, it is then to be followed and choſen, and the natural to be left, when the circumſtances, the matter and the appendages doe enforce it, elſe not: but yet the legal ſenſe of a word though it prevails not againſt the natural, yet it muſt prevail in the common ſenſe of law, againſt the ſenſe of privilege and exception. Among the *Romans* they who had three children had a right not to be ſent to the warres. But if by the common uſe and ſignification of the law, the word [children] had ſignified *Nephews*, or *adopted children*, although this ſenſe could not have prejudic'd the firſt and natural ſenſe of the word; yet when the Emperor gave the ſame privilege to them that had children in no ſenſe, but to ſuch as made three books, children of the brain, the ſecond ſenſe could not prevail againſt the firſt, yet it might againſt the laſt.

9. 7. Words that are of civil or legal ſignification muſt not ſignify according to Grammar, but according to Law. *Suſpenſion* muſt not ſignify hanging of the man, but a temporary laying aſide his office or emolument: and *Sacrament* muſt not in Theology ſignify an oath, but a religious ceremony of Chriſts inſtitution. For whatſoever is a word of art muſt be underſtood by the meaſures of that art; and therefore if it be a law-term, though that word be us'd alſo in common among the people, yet not this ſenſe but that is to be followed in the underſtanding of the law *. But if the law hath no propriety of uſe or interpretation in the word, but takes it up from the common uſages of the Country, not the beſt lawyers, but the beſt Maſters of language are the beſt interpreters. To which this is to be added, that if a word in law be taken from the common uſe, and this uſe change, and the law abide, the word in the law muſt abide the ſame as does the law, and muſt not change with the common uſe: and in this caſe, not the beſt Lawyers, nor the beſt Grammarians, but the beſt Hiſtorians are the beſt meaſures of our Conſcience. The word *Cenſeo* in the law of the *Romans* at firſt did ſignify *to appoint*, afterwards *to eſtimate*, and then *to cenſure*, and at laſt *to counſel* or *to ſuppoſe*. Now when the word *cenſere* is uſed *l. ult. ff. de ſuis & legit. hæred.* it muſt not be expounded by *Cicero* in his oration *pro Cluentio*, where it ſtands for *liquet*, for in this law it ſtands for *conſulere*: and therefore in ſuch caſes we are to inquire what the word ſignified when the law was made, for the word in the old uſe is not the meaſure of the preſent uſe; neither if it were clear what it meant in the ancient laws, could that be the meaſure of expounding contracts or humane acts or obligations at preſent; nor yet can that word in that old law receive an interpretation by the difference which it hath got by time.

* *Dialecticorum verba nulla ſunt publica; ſuis utuntur: & id quidem commune omnium fere eſt artium. Cicer. lib. 1. Acad.*

10. But it may be ſome of theſe rules will be but ſeldome uſefull to our caſes of conſcience; poſſibly they may often: but then to reduce theſe things to the intentions of the preſent Rule, and to become a meaſure of practice, there are three great rules which are the beſt and moſt general meaſures of finding out the meaning of the words of laws in order to equity and conſcience, when the Grammar or the common uſe of the words themſelves is not ſufficient.

11. 1. *That is the meaning of the words of the law that does the work of the law.* And this is the firſt rule of equity. For it is but conſcience to ſuppoſe that he that makes a contract does it *bonâ fide*, and he that makes a Will would have it executed, and he that leaves a Legacy would have it doe good, & he that appoints a guardian would have one that ſhould be fit for the imployment, that the thing in hand may not periſh and come to nothing. And therefore *Braſidas* did cavil, not treat like a Prince, when having agreed with the *Greeks* that he would quit his claim to the *Bœotian* fields, he afterwards told them that thoſe were not the *Bœotian* fields but his own where he encamp'd his army. Which thing if it had been true, they all had treated about nothing. And when the laws of *Sicily* forbad their prieſts to reſign their Benefices to their ſons, the two prieſts of *Panormo* that agreed together interchangeably to reſign their's to the ſon of each other, did keep the words of the Canon well enough; but they took a courſe that the law ſhould not acquire it's end, and therefore they ſinn'd againſt it's meaning. And this Rule is of great uſe in all doubtfull and amphibological expreſſions, according to that rule in the law, *Quoties idem ſermo duas ſententias exprimit, ea potiſſimum excipiatur quæ rei gerendæ aptior eſt.* Thus in the diſcerning contracts and other entercourſes, the ſubſtance of the thing and the preſent imployment is more to be conſidered then any improper or æquivocal expreſſion, or quirk in the words of the law or entercourſe. *Antonio Caſulano* a poor *Piemontane* having a ſad vintage & harveſt one year by reaſon of the early rains running from the hills before he had gather'd his fruits, comes and complains to his landlord *Signior Vitaldo*, and tells him his ſad condition, and how unable he was to pay his rent. *Vitaldo* pitying his poor tenant, told him he would never exact any thing of his tenants that were ruin'd by the hand of heaven, and therefore for his rent he bid him be at reſt and let it alone. *Caſulano* makes his leg and thanks his lord, and goes home. But the next year he had ſo brave a harveſt and ſo full a vintage, that it was greater then two years before. He comes and brings this years rent: but *Vitaldo* asks him where was the rent of the former year. The tenant ſaies it was forgiven him. Here then is the queſtion, what was meant by, *let it alone*, and *he would not exact his rent of his diſabled tenants*; that is, while they were not able he would forbear them: for there all the entercouſe was about forbearing the rent, and he never thought to ask his lord to forgive it him. But this ſenſe of the words was *rei gerendæ aptior*, it was agreeable to both their intereſts in conjunction, and therefore *Caſulano* is bound in conſcience to pay his rent. So the Lawyers ſay, *Si ambigua ſit intentio ſeu actio, quod utilius ſit actori accipiendum eſt.* The landlord is to have the advantage of the ambiguity; for beſides that he knew his own meaning beſt, the right was his, and no man is to be preſum'd to part with his right againſt his will. And thus it is in the law, as well as in Contracts, *Amphiboliæ enim omnis in his erit quæſtio: aliquando uter ſit ſecundum naturam magis ſermo; ſemper utrum ſit æquius, utrum is qui ſic ſcripſit ac dixit, ſic voluerit.* So *Quintilian* draws into a compendium all the rules of expounding doubtfull words. Firſt, ſee whether it be agreeable to the thing in hand, for no man is willing his own act ſhould periſh: for this ſometimes will doe it; but if it will not, then equity muſt intervene: but if by any other way we know the mind of the law-giver, that is of all things to be preferred. For though the caſe be hard, yet if it was the mind of the law-giver and be not unjuſt, it muſt ſtand. *Quod quidem perquam durum eſt, ſed ita lex ſcripta eſt,* *It is hard, but ſo the law is written.*

Thucyd. l. 4.

l. 67. ff. de reg. jur.

l. ex conducto. §. Papinianus. ff. de uſur.

l. 66. de Judiciis.

lib. 7. cap. 9. Orat.

l. perſpexit. ff. Qui & à quibus.

written. That is, if the mind of the law-giver be certain and clear, no equity is to intervene; but when the mind is not known, equity is the beſt meaning. But of this by and by. This is of great uſe in Religion as well as in juſtice. For when God gives a command and uſes myſtical expreſſions, metaphors, ritual or typical repreſentments, or ſignifies his pleaſure by the outſide and cruſt of ſervices, though this is not to be deſpis'd or omitted, yet the ſpiritual and moral ſenſe and internal ſervice is the principal, that is *rei gerendæ aptior*, more to God's purpoſes, and more to ours. When God commands us to repent, and to ſerve him, he that asks the queſtion, when God would have us to repent, whether it will not ſerve the turn if we repent at all, if we repent upon our death-bed, becauſe the words of the commandement doe indifferently ſignify any time; here we are rightly determin'd by this Rule, That was God's meaning which does God's work, that without which the work would periſh, and God would not be ſerv'd: for God's intention being that we ſhould glorify him by a free obedience, and ſerve him in a holy life, that which makes God to looſe his purpoſe, cannot be the meaning of his words. Thus when God commands us to come into his Courts, to fall down upon our knees before his footſtool; it muſt mean that we muſt worſhip God with the loweſt adoration of our ſouls, with the proſtration of our mind: for the body without the mind being nothing, unleſſe this commandement for bodily worſhip be expounded to ſignify the worſhip of the ſpirit, God is injur'd, his intention is defeated: and therefore the law hath taken care of this. *Impropriè verba regulariter non accipiuntur, niſi aliter actus vel periret, vel eluſorius redderetur*, Words are not to be taken improperly, unleſſe the proper acception of it does elude the purpoſe of the law-giver, and makes his law vain. Thus the very Gentiles underſtood the mind of God: when he commanded men to offer ſacrifices and oblations to him, his meaning was, they ſhould kill their luſts, and ſacrifice themſelves to God. To this purpoſe are thoſe excellent words of *Menander*,

l. cum filiofam. ff. de legat.

Εἰ θυσίαν τις προσφέρων, ὦ Πάμφιλε,
Ταύρων ἢ πλῆθος, ἢ ἐλέφων, ἢ καλὰ σκυάσματα,
Χρυσᾶς ποιήσας χλαμύδας, ἤτοι πορφυρᾶς,
Ἢ δι' ἐλέφαντος ἢ σμαράγδου ζῳδία,
Εὔνουν νομίζει τὸν θεὸν καθιστάναι,
Πλανᾶτ' ἐκεῖνος· χὐ φρένας κύφας ἔχει.

He that offers to God the ſacrifices of bulls and goats, or of any other beaſt, gold or rich garments, Ivory or precious ſtones, and thinks by this means to reconcile God to him, is deceiv'd, and is a fool. When God commanded theſe things he intended to be underſtood to other purpoſes.

Δεῖ γὰρ τὸν ἄνδρα χρήσιμον πεφυκέναι,
Μὴ παρθένους φθείροντα χὐ μοιχώμενον,
Κλέπτοντα χὐ σφάττοντα χρημάτων χάριν.
Μηδὲ βελόνης ἅψαμι' ὑπεύθυνος, Πάμφιλε,
Ὁ θεὸς βλέπει σε πλησίον παρών.

For the ſacrificer muſt be a ſpiritual man, dead unto ſin and living unto righteouſneſſe; he muſt be chaſt and charitable, juſt and true, a deſpiſer of the world, and muſt not deſire ſo much as another mans pin; and he muſt be the ſame in private as in public, walking ever as in the preſence of God. This is an excellent ſumme of religion, and the beſt interpreter of the ſpi-

ritual ſenſe of *Moſes* law, next to the Sermons of the Goſpel: but without this the work of God had periſhed, and religion it ſelf had been eluſory. And this is a ſufficient warrant for a ſenſe beyond the letter of a Commandement.

12. 2. In all laws and obligations of conſcience by contract, when any doubt ariſes, we are to conſider what is moſt likely and what is moſt uſual, and reſt upon that. *In contrahendo quod agitur pro cauto habendum*, ſaies the law. We muſt ſuppoſe that the contractor did intend that ſenſe that is the warieſt, becauſe that is the moſt likely; nothing being ſo reaſonable as to think the man intended that which all the world does, that is, to buy cheap and to ſell dear. If this will not doe it, then we muſt run to the cuſtome of the country; becauſe the things and manners of cuſtome, though they were not in the contract, yet *veniunt in bonæ fidei judiciis*, they are to be of weight in judgements, as being a reaſonable deciſion of queſtions and obſcurities. But if nothing of all this will doe, then comes in the principal rule of equity and remiſſions: *Semper in obſcuris quod minimum eſt ſequimur*, In all things of burden the leaſt is to be choſen. This is of uſe in Contracts, in Teſtaments, and in infliction of puniſhments.

l. cum quid. ff. de reb. credit.

l. 9. ff. de regul. jur.

13. * *In Contracts.* He that promiſes to give a man an hundred or two hundred pound, cannot be challeng'd nor oblig'd but for a hundred. *In ſummis ſemper quod minus eſt promitti videtur.* The reaſon is, becauſe when two things of burden are expreſſed, he that promiſed muſt ſo far be his own judge as to determine himſelf in the event, when he did not in the ſtipulation; and therefore it is to be preſum'd that he would be bound but to the leſſe. For as in the Canon law, when a Biſhop had obtain'd leave to reſign or quit his litle Biſhopric, of his ſuperior, it is not granted that he ſhall be tranſlated to another in the grant of ceſſion; and the reaſon given in the law is this, *Nam ſi circa tranſlationem idem fieri voluiſſet, quod de ceſſione dixerat, & de tranſlatione poterat expreſsiſſe*, *Becauſe he that granted a ceſſion, could as eaſily have ſaid tranſlation if he had ſo intended*: ſo here alſo it is preſum'd that he intended to give the leaſt, becauſe if he had intended the biggeſt, he might as eaſily have ſaid ſo, as to have nam'd a leſſe; and if he intended the greater, he may perform it yet if he pleaſe. Thus if *Titius* promiſe to pay his debt within a year or two, *Caius* cannot by virtue of that promiſe force him to pay it till the two years be out.

l. inter ſtipulantem. & l. ſi ita. ff. de verb. ſignif.

cap. 2. §. ſed neque. de tranſlat. Epiſc.

14. * *In Teſtaments* alſo the caſe is the ſame. *Mævius* makes his Will; and leaves *Lucius* his heir of all, but gives his ſiſter as much as one of his ſons. The heir is tied to pay his Aunt but ſo much as that ſon hath whoſe portion is the leaſt. Thus when *Regulus* left to his wife *Quintilla* the field that was next to the *Campus Martius*, the *Prætor* underſtanding that he had two fields next to the *Campus Martius*, gave her the leaſt of the two: the reaſon is, becauſe the Father is ſuppos'd to put upon the Heir that burden which is the lighter.

l. cum ſervus, §. ſcio. ff. de legat. & l. unum ex familia, §. item tuam. ff. eod.

15. But this holds not in all caſes: the rule is the ſame, and eaſe and remiſſion is to be done, and the gentler ſentence is to be followed, and the leaſt burden to be impos'd, and the ſmalleſt legacy to be pai'd and receiv'd, or the moſt advantageous ſenſe of favour is to be purſued: but all the difficulty will be to whom the eaſe or the advantage is to be done; for ſometimes one,

one, and ſometimes another is to have the benefit of the Chancery. 1. For the heir is to be favour'd againſt the Legatées, unleſſe God and religion be the Legatée, for the Church is to be favour'd againſt the heir. And therefore *Scævola* ſaid, that if a *Roman* in his Teſtament appointed an image to be ſet up in a Temple in which there were marble and braſſe and ſilver ſtatues, the legacy was to be performed in the moſt coſtly material; *idque favore Dei & religionis*, ſaies the law; becauſe in doubts it is fit that God ſhould have the preeminence, and it is alſo to be preſumed that the Teſtator intended to give the beſt unto the beſt. Let the inſtance be chang'd and it is a good meaſure for conſcience in the cauſes and queſtions of Chriſtians. 2. The heir or the Donor is to be eas'd and to be underſtood in the leaſt ſenſe, unleſſe that leaſt ſenſe makes the gift unprofitable and good for nothing. *Aruns* dying left a ſervant to his Brother for a legacy. *Canidius* who was the heir offers to give to his Uncle his man *Spinax*, who was the verieſt rogue in all the Empire. But his Uncle anſwered, My Brother did not intend to give me a miſchief. Then he offers him *Lentillus* who was little better then a fool. To this his Uncle anſwer'd, My Brother did not intend to give me nothing. And at laſt the Uncle demanded *Aretius*, who was his Brothers Phyſician: but that *Canidius* refus'd, and he might very well; but he gave him *Merula* that was a very good Baker, and both were indifferently pleas'd: but ſuch a one that was not the beſt, and yet was good for ſomething, was due by juſtice. 3. Cauſes of repetition are to be favour'd more then cauſes of gain. He that deſires but to ſave himſelf, or to get his own, is to have the advantage of him that if he prevails gets gain: and the reaſon is, becauſe it is better to ſave a main ſtake, then to get an acceſſion; it is better to have one preſerved then another increaſed: and it is more to be preſumed that he who demands reſtitution ſeeks but his own, then that the others gain is juſtly his. 4. He that buyes in doubts of conſcience and law, is to be preferr'd before him that ſells, and the interpretation ought to be on the behalf of the firſt. The reaſon of this is, becauſe he that ſells cannot ſo eaſily be deceiv'd as he that buyes, for every man is juſtly preſum'd to know the price of his own goods, and be cunning in his own trade. 5. For dowries and 6. for liberty and 7. poſſeſſion ſentences are to be given in the favourable ſenſe, becauſe the caſes themſelves are full of charity and mercy; and they that complain in theſe caſes are commonly the oppreſſed party.

l. Titia. 38. §. fin. ſup. de auro & argent. leg.

Libertas omnibus rebus favorabilior eſt. l. 38. ff. de re judicat.

16. * This Rule alſo is intended and that principally in *puniſhments* and *penal ſentences* of law. Where if the law be obſcure, it is on all hands confeſs'd, that the ſenſe of equity is an excellent interpretation and declares the mind of the law-giver: and it is alſo true that if ſeveral penalties be expreſſed in the law, *ordinarily* the judge is to impoſe the leaſt; and the reaſon is, becauſe he does at once the actions of two vertues; it is juſtice and it is charity at the ſame time. I ſay *ordinarily*, for ſometimes there are great examples to be made, and in them there is very often *Aliquid iniqui**, nothing of equity, but ſomething that was very hard: and the *Hebrew* Kings (ſay the Rabbins) had a power of cauſing the malefactor to hang all day and all night upon the accurſed tree; though the law was more gentle, and commanded the body to be taken down before the Sun ſet; but if the public neceſſity requir'd it, the Jewiſh Doctors ſay that their Kings had power.

l. interpretatione. ff. de pœnis.

**Habet aliquid ex iniquo omne magnum exemplum, quod contra ſingulos utilitate publica rependitur, dixit C. Caſſius apud Tacitum.*

But

17. But the great difficulty is, when the words of the law are expreſſe, and name the puniſhment, whether or no can there be any remiſſion by equity or interpretation? *Titius* being cited to appear in Court, came not, and was fin'd: but he came immediately. The queſtion is, whether he ought in conſcience to be relieved. It is certain that in law the ſentence againſt him is juſt; for let the cauſe be never ſo odious, the law muſt be underſtood according to the propriety of the words, unleſſe the intention of the law-giver can otherwiſe be certainly known. But if by any ways he can be relieved, he ought to be, if there be evident equity on his ſide. But becauſe this equity is againſt the ſolennity of law, it muſt be introduc'd as ſolemnly, that is, by a law, or a ſolemn decree according to the diſpoſition of law. But this latter part is matter of prudence more then of conſcience; and concerning this conflict of law and equity *Cicero* hath ſpoken excellent things, as who pleaſe may ſee in his Oration *pro Cæcina* and in his *lib. 2. Vet. Rhet.* But for the practice of it both in law and conſcience it is an excellent rule of law, *Capienda eſt occaſio quæ præbet benignius reſponſum*; An occaſion muſt not be forc'd againſt law, but if any can be found it muſt be us'd in the behalf of equity. And therefore *Celſus*, *Marcellus* and *Ulpian* are noted with a fair memory for being ſtudious of equity in the ſentences of law: and for this very thing *Cicero* commends *Servius*: but *Scævola*, *Paulus*, *Julianus* and the *Sabiniani* and ſome others were more propenſe to rigor and ſubtilty, and were leſſe belov'd.

l. 168. ff. de reg. jur.

Philipp. 9.

Claudian. *Turpe rigor nimius: Torquati deſpue mores.*

Titus Manlius was to blame in putting his ſon to death for a glorious victory gotten by a little offence. But all good laws were ever deſirous of eaſy interpretation when the matter it ſelf was a burden: and it was well ſaid of *Gattinara* to the Emperor *Charles* the 5th, *Chi vuole troppo abbracciare, va à pericolo di non ſtrignere coſa alcuna*, He that ſtrains the cord too hard, breaks it and can bind nothing. *Periculoſum eſt prægrave Imperium: & difficile eſt continere quod capere non poſſis*, ſaid **Curtius*. He that fills his hand too full, lets goe more then he ſhould. There is a meaſure in laws, which muſt not take in every thing, but let ſome things paſſe gently; for a government that is too heavy is dangerous: and therefore without all peradventure when the puniſhments are general, the leaſt ſpecial ought to be taken. Thus Gentlemen are not to be puniſh'd with the puniſhment of ſlaves and vagabonds. If bodily puniſhment by law be commanded, ſcourging is to be underſtood, or ſuch as is in uſe in the nation, and not the cutting off a member, or putting to death, ſay the *Greek* lawyers. And there is no exception to this, but this onely, That this is to be underſtood in lighter offences, not in greater; for in theſe it may be of as much concernment to juſtice that the ſeverer part be taken, as it is to charity that lighter offences ſhould carry the lighter load. And therefore the *S. C. Syllanianum* decreed that if a ſlave had kill'd his lord, all the ſlaves in the houſe ſhould die for it. It was a hard and a ſevere law; but it was a great crime, and by great examples the lives of maſters were to be ſecur'd: and to this purpoſe *C. Caſſius* the Lawyer defended it with great reaſon, as is to be ſeen in his oration in *Tacitus*.

apud Guicciard. l. 16. Gall Proverb. Qui trop embraſſe, mal eſtreint.

* lib. 4.

ad l. pen. ff. de pœnis.

apud Tacit. l. 14.

18. 3. In matters of favour and matters of piety, the ſenſe of the law is to be extended by interpretation. Things odious and correctory are called *ſtricta* in the law, and that which is favourable is called *res ampla*; becauſe

cauſe as the matter of that is to be made as little as it may be, ſo the matter of this may be enlarged. Thus if any thing be done in the favour of the children, the adoptive and the naturall are included, when it is not to the prejudice of the legitimate. And that which is made legitimate is to be reckoned as that which is ſo of it ſelf; and he that is naturaliz'd is to be reckon'd as a Native; and a freed man, as he that was born free; and the privileges granted to a city are to be extended to the ſuburbs. But this Rule is to be eſtimated as the former, there being the ſame reaſon of Contraries, ſave onely that there is in the matters of favour ſomething of particular conſideration. For although it is by the former meaſures ſet down who are the perſons, and which are the cauſes to be favour'd and eas'd; yet thoſe perſons are not in all caſes to receive the advantage; that is they are in all caſes which the words of the law can bear, except that by that favour the whole proceſſe be evacuated, or the thing be loſt. Therefore although the guilty perſon is favour'd in all the methods and ſolennities of law, where the law can proceed; yet where the favour would hinder the proceeding, the accuſer and not the guilty perſon is to receive it. For the accuſer hath the advantage of taking his oath in law, which the guilty perſon hath not; becauſe the law ſuppoſes he will deny the fact, right or wrong. And thus we are alſo to proceed in our private entercourſes of juſtice and charity, we are rather to believe the accuſer ſwearing, then the accuſed. But if the accuſation be not ſworn, or if the guilty perſon be brought into judgement upon ſuſpicion onely, and a public fame, we are rather to believe the accuſed ſwearing his innocence, then the voice of fame, or uncertain accuſers.

§. 2. *Judicial Interpretation.*

RULE II.

When the power that made the law does interpret the law, the interpretation is authentical, and obliges the Conſcience as much as the law; and can releaſe the bond of Conſcience ſo far as the interpretation extends, as much as if the law were abrogated.

1. WHen the law is interpreted by the Emperor, *ratam & indubitatam habendam eſſe* ſay the Lawyers. The reaſon is plain and eaſy. The law is nothing but the ſolemn and declar'd will of the law-giver; and he that ſpeaks, beſt knows his own mind; and he that can take away the law, can alter it; and he that can cut off the hands, may certainly pare the nails: and ſince the legiſlative power never dies, and from this power the law hath it's perpetual force, and can live no longer then he pleaſe, by what method of law ſoever he ſignify his mind, whether it be by declaring the meaning of the law, or by abating the rigor of it, or diſpenſing in the caſe, or enlarging the favour, or reſtraining the ſeverity; it is all one as to the event

and

and obligation of conſcience. The interpretation is to the law, as the Echo to the voice; it comes from the ſame principle; and though it ſpeaks leſſe, yet it ſpeaks oftner, and it ſpeaks enough, ſo much as is then to be the meaſure of the Conſcience in good and evil.

2. For when the law-giver does interpret his law, he does not take off the obligation of the law, but declares that in ſuch a caſe it was not intended to oblige. *Tacitus* tells of a *Roman* Knight who having ſworn to his wife that he would never be divorc'd from her, was by *Tiberius* diſpens'd with when he had taken her in the unchaſt embraces of his ſon in law. The Emperor then declar'd that the Knight had onely oblig'd himſelf not to be divorc'd, unleſſe a great cauſe ſhould intervene. Thus we find that P. *Lucius* * the 3d did abſolve thoſe from their oath that ſware they would not ſpeak to their Father or Mother, Brother or Siſter, or ſhew them any kindneſſe: but this abſolution quitted them not from the ſin of a raſh & impious oath, but declar'd that they were not bound to keep it. *Abſolvit, i. e. abſolutum oſtendit*, as Pope *Nicholas* did in the Caſe of the Arch-biſhop of *Triers*, he declar'd him to be at liberty; and the Gloſſe derives a warranty for this uſe of the word out of the Prophet *Iſaiah*.

* c. cum quidam. §. illi vero de jure.

c. authoritatem. 15. q. 6. Gloſſ. magn. verb. abſolvimus.

3. It was ill ſaid of *Brutus*, that a Prince might not be more ſevere, nor yet more gentle then the law. For there are many things *quæ naturâ videntur honeſta eſſe, temporibus ſunt inhoneſta*, ſaith *Cicero*, which at firſt ſanction of the law and in their own Nature are honeſt, but in the change of times and by new relations become unjuſt and intolerable: and therefore the Civil law allows to Princes a power *juvare, ſupplere, corrigere, to help, to ſupply, to correct* the laws. For thoſe are but precarious Princes who when they ſee a caſe that needs a remedy, cannot command it, but like the Tribunes of *Rome*, when they offer'd to intercede and interpoſe between *Fabius* and the ſentence of *Papyrius* the *Dictator* by which *Fabius* was condemned, could effect nothing till they went upon their knees in his behalf. But it is worſe that the laws of a nation ſhould bind the Prince as *Jupiter* in *Homer* was bound by the laws of Fate, ſo that he could not help his ſon *Sarpedon*, but ſate weeping like a chidden girle. But of this I have already given ſufficient accounts. The Supreme power is *Dominus legum, Canon animatus in terris, lex animata, fons juſtitiæ, ſupra jus diſpenſare potens*, as *Innocentius* ſaid of himſelf; and therefore of this there can be no queſtion. *Inter æquitatem juſque interpoſitam interpretationem nobis ſolis & oportet, & licet inſpicere*, ſaith the Emperor, *C. de leg. & conſt. Princ.* The Prince alone hath power to intervene between equity and ſtrict law by his interpretation. This is now to be reduc'd to practice.

lib. 3. de Offic.

l. jus a. §. 1. de juſt. & jure.

c. propoſuit. de conceſſ. præbend.

4. Firſt this power muſt be adminiſtred with nobleneſſe & ingenuity; not fraudulently, or to oppreſſe any one, which *Cicero* calls *calumniam, & nimis callidam, ſed malitioſam juris interpretationem, a crafty and malicious commentary*. Such as was that act of *Solyman*, who after he had ſworn never to take from *Ibrahim Baſſa* his life, kill'd him when he was aſleep, becauſe *Taliſman* the Prieſt declar'd that ſleep is death. Thus the *Triumviri* in *Rome* having a mind to kill a boy, which by the force of law they could not doe, they gave him the *Toga Virilis*, and forc'd him to be a man in eſtimation of law, that by law they might oppreſſe him: and *Mithridates* King of *Armenia* thought himſelf ſecure when *Radamiſtus* the ſon of *Pharaſmanes* the *Iberian* King had promis'd he would neither ſtab nor poyſon him; but the

lib. 1. de Offic.

yong

yong Tyrant interpreted his promiſe maliciouſly, when he oppreſſed him with pillows and featherbeds: and all *Europe* hates the memory of the Arch-biſhop of *Mentz*, who having promis'd to *Atto Adel* a Palatine of *Franconia* that he ſhould ſafely return out of his Caſtle, did indeed perform the letter of his word; but pretending kindneſſe as well as juſtice, when he had brought him forth of the Caſtle, paſſionately invited him to break-faſt, and then killed him when he reentred. The power of Princes to give ſenſes to their laws muſt be to doe juſtice and to give eaſe to the pitiable and oppreſſed.

5. 2ly, This power is not to be adminiſtred but upon grave & juſt cauſes: for to be eaſy and forward in bending the laws by unneceſſary interpretations is but a diminution of juſtice, and a looſeneſſe in government; as was well obſerv'd by *Livy*, ſpeaking of thoſe brave ages in which the *Romane* honeſty and juſtice was the beginning of the greateſt Empire of the world, *Sed nondum hæc quæ nunc tenet ſeculum negligentia Divum venerat, nec interpretando ſibi quiſque jusjurandum & leges aptas faciebat, ſed ſuos potius mores ad ea accommodabat, The neglect of the Gods and the laws was not gone ſo farre as to bend the laws to the manners of men, but men meaſur'd their manners by the laws:* and then no man can deny to a Prince leave to derogate from his laws by ſuch interpretations. *Licet enim Regi in civitate cui regnat, jubere aliquid quod neque ante illum quiſquam, neque ipſe unquam juſſerat*, ſaith S. *Auſtin*; A King in his own dominions may command that which neither any man before him, or himſelf before that time commanded: meaning that although he muſt govern by his laws, yet when there is a favourable caſe, he may give a new ſenſe to them, that he may doe his old duty by new meaſures. Thus *Solomon* abſolved *Abiathar* from the ſentence of death which by law he had incurred, becauſe he had formerly done worthily to the intereſts of his Father *David*. Thus when *Cato Cenſor* had turned *L. Quinctius Flaminius* out of the Senate, the Majeſty of the *Roman* people reſtor'd him; and though they had no cauſe to doe it, yet they had power. Now this power though it may be done by interpretation, yet when it is adminiſtred by the Prince it is moſt commonly by way of pardon, abſolute power and prerogative. Thus Princes can reſtore a man in bloud. *Fas eſt cuivis Principi maculoſas notas vitiatæ opinionis abſtergere.* So *Antony* the Emperor reſtored *Julianus Licinianus* whom *Ulpian* the Preſident had baniſhed. When a law determins that under ſuch an age a perſon ſhall be uncapable of being the General of an army, the Supreme power can declare the meaning of the law to be, unleſſe a great excellency of courage and maturity of judgement ſupply the want of years: in which very caſe *Scipio Africanus* ſaid wiſely, when he deſir'd to be imployed in the *Punic* warre, *ſe ſat annorum habiturum ſi populus Romanus voluerit, he ſhould quickly be old enough if the* Roman *people pleaſed.* Thus *Tiberius* put *Nero* into the Senate at fifteen years of age, and ſo did *Auguſtus* the like to *Tiberius* and his Brother; and the people declar'd or diſpens'd the law in *Pompey*'s caſe, and allowed him a Triumph before he had been Conſul or Prætor.

lib. 3.

lib. 3. Confeſſ. c. 8.

Caſſiodor. lib. 3. var. ep 46. l. Cum ſalutatus. C. de ſent. paſs.

6. But to this there is not much to be ſaid; for he that can make a New law, may by interpretation change the Old into a New; that is, any interpretation of his is valid, if it be juſt, naturally juſt, though it be not according to the Grammar or firſt intention of the Civil or Municipal law: *quia*

l. ult. C. de legib. *ſi leges condere ſoli Imperatori conceſſum eſt, etiam leges interpretari ſolo dignum imperio eſſe oportet.* He that can doe the greater can doe the leſſe; and he that hath power of cutting off the head, can diſpoſe of the tongue as he pleaſe, ſo that if it will not ſpeak what he would have it, he can take a courſe it ſhall ſpeak nothing againſt him. But the caſe is otherwiſe in Judges.

7. For the interpretation of laws made by Judges is matter of fidelity and wiſe diſpenſation, but nothing of Empire and power; and it is a good probable warranty of Conſcience, but no final determination in caſe any cauſe of doubt happens to oppoſe it. And this was well obſerved by *Ci-*
pro Ligario. *cero: Nemo apud Judices ita ſolet cauſam agere; Ignoſcite Judices, Lapſus eſt, Non putavi, Si unquam poſthac. In Senatu vero, & apud populum, & apud Principem, & ubicunque juris clementia eſt, habet locum deprecatio.* No man is to ask any favour of the Judges but what the law allows him, but of the Prince he may;

Gunther. lib. 4. *A quo ſæpe rei, nullo licet ære redempti,*
Accipiunt propriam donato crimine vitam.

For what is wanting in the proviſions of law he can make up by the fulneſſe of his power: and if there be no injury to any, let there be what favour or indulgence he pleaſe, his interpretation is good law, and can bring peace to the conſcience in the particular. According to this is that of the
l. ult. ff. qui ſatisd. cog. Lawyers, *Qui jurato promiſit judicio ſiſti, non videtur pejeraſſe, ſi ex conceſſa cauſa hoc deſeruit, He that hath ſworn to appear in judgement, is not perjur'd if he have leave given him not to appear:* meaning, from him that can interpret the law, or diſpenſe, declare the man not bound, or give leave to break it. But when the Judges interpret a law, they either expound it by cuſtomes of the Court or Country, or elſe by learning and wiſe conjectures. Interpretations by prevailing and allowed cuſtomes are good law and ſure meaſures of action according to the doctrine of cuſtomes; of which in part I have given account, and ſhall yet adde ſomething in the *6.* §. of this Chapter, and therefore I ſhall adde nothing here. But if the Judges interpretation be onely doctrinal, it is ſufficient to us that it is not introductive of a law, and it cannot of it ſelf be a reſolution of conſcience; but is to be
lib. 1. Chap. 4. made uſe of according to the doctrine of probabilities. This onely is to be added, that if the authoriz'd Judges doe conſent, and by a delegation of power, or the cuſtomes of the Nation, or the diſpoſition of the law the ſentence does paſſe *in rem judicatam into a legal ſentence*, then it obliges as a law; for it is a warranted interpretation and declares the ſenſe of the law, and conſequently does bind the Conſcience.

§. 3.

§. 3. *A contrary or ceasing reason.*

RULE III.

A law made for a particular reason, when the reason wholly ceases, does no longer oblige the Conscience.

1. THe title of this §. implies a distinction of reasons considerable in this particular. For sometimes it happens that onely one reason dies, and there is no other change, but that the efficient cause of the law, from whence it had it's being, is dead. But sometimes it is more then so; for not onely the reason of the law is gone, but a nettle is risen up in the place of it, and that which was once profitable is become intolerable, and that which was just is now dishoneſt, and that which was righteous will not be righteous still, but against the public interest. * Now when *a contrary reason* does arise there is no peradventure but the law ceases: and this is to be extended not onely to the case of injustice or impossibility, but of trouble or of uselesnesse; that is, if the contrary reason makes things so that the law could not justly have been impos'd, or if it had been *de facto* impos'd, it could not oblige the conscience, then the conscience is restor'd to liberty and disobligation. * But then this case must be manifest: for if it be doubtfull, the law retains her power; for it is in possession, and the justice of it is presum'd.

2. But if the reason of the law ceases onely, and no more, there is some more difficulty, for it may be the *will* of the Prince does not cease, and he intends the law should last for the support of his authority; and that will be reason enough to keep up a law that once was good and now hath no harm in it: and there ought to be a great reason that shall change a custome, though it be good for nothing; and where there was a law, a custome will easily be suppos'd, especially if the law was usefull and reasonable, as we suppose in the present case. And if the law did prevail unto a custome, and that it be not safe to change a custome, then though the proper reason of the law be ceas'd, there is another reason arisen in the place of it that will be enough to bind the conscience to obedience. For the stating of this question, it is still necessary that we yet first distinguish, and then define.

3. 1. Some laws have in them a natural rectitude or usefulnesse in order to moral ends, by reason of the subject matter of the law, or by reason that the instance of the law is made an instrument of vertue by the appointment of law. 2. Others have onely an acquir'd rectitude, and an extrinsic end; that is, it was by the law-giver commanded in order to a certain purpose, and beyond that purpose it serves for nothing. Thus when a Prince imposes a tribute upon a Country for the building of certain bridges, when the work is done, the tribute is of no public emolument. But if he imposes

a faſt upon Wedneſdays and Fridays for ſix moneths to obtain of God to remove the plague from a City or a Country, though the plague be gone before the end of four months, yet the faſt may ſerve many other good ends.

4. Another diſtinction to be conſidered is concerning the ceſſation of the reaſon of the law, whether the reaſon be intrinſecal or extrinſecal. For ſometimes the reaſon *ceaſes univerſally*. Sometimes it remains as to the generality, but is alter'd in the particular caſes. So if a Superior commands that none of his ſubjects ſhall enter into ſuch a family where there are many fair women amorous and young, leſt ſuch a converſation ſhould tempt them to wantonneſſe; the general reaſon of the law remains, although *Alexis* be an Eunuch, and old *Palæmon* have a dead palſy upon him and cannot be warm'd by ſuch fires. The reaſon ceaſes in the particular, but abides ſtill in the general.

5. A third thing is alſo to be obſerved, which hath in it ſome difference of caſe. Sometimes there are many parts of a law, and ſometimes it is uniform and hath in it but one duty. That which hath parts and is a combination of particulars may ceaſe in one or more of them, and the reſt abide in their full uſefulneſſe and advantage. And theſe and all the former may be uſeleſſe, or their reaſon may ceaſe for a time, and be interrupted, and a while after return: and in all theſe the reaſon may ceaſe negatively, or contrarily; that is, the firſt cauſe may ceaſe, or another quite contrary may come.

According to theſe diſtinctions, the caſes and the anſwers are ſeveral.

6. 1. If there be two ends in the law, an extrinſecal and an intrinſecal; though the extrinſecal be wholly and generally ceas'd, yet the law obliges for it's intrinſic reaſon, that is, when it commands an act of it ſelf honeſt and vertuous. Thus if a Prelate, or a Prince, commands women in Churches to ſit apart, and to wear vailes that they may not be occaſion of quarrels and duels amongſt yong Gentlemen; if it happen that the Duelling of Gallants be out of faſhion, and that it be counted diſhonourable to fight a duell, then that end of the law ceaſes; and yet becauſe it is of it ſelf honeſt that women ſhould have a vail on their head for modeſty ſake, and becauſe of the Angels, this law is not to ceaſe, but to ſtand as well upon one leg, as it did before upon two. But this can onely be when Divine and humane laws are complicated, or at leaſt when humane laws are mixt with a matter of perfection and Counſel Evangelical, or of ſome worthineſſe, which collaterally induces an obligation diſtinct from the humane law.

7. 2. If a law be appointed for an extrinſecal end, when that reaſon ceaſes univerſally, though there be an inherent and remaining worthineſſe in the action, and an aptneſſe to miniſter to a moral end, yet that law binds not unleſſe that moral end was alſo intended by the law-giver. For that which was no ingredient into the conſtitution of the law, can have no power to ſupport the law, for it hath nothing to doe with the law; it never help'd to make it, and therefore by it cannot be a law, unleſſe by the legiſlative power it be made anew. So that ſuch actions which can be good for ſomething of their own, and are not good at all for the end of the law-giver, can onely be lawfull to be done, but they are not neceſſary. Therefore

fore when a law is made that every Thurſday the ſubjects ſhould goe to Church to Morning prayer, that they might in the public offices pray for the life of the Prince, if the Prince be dead that law obliges not; for although going to Morning prayer is of it ſelf good, yet if the Prince had no conſideration of that good, but of his own, that good entred not into the law, and had no cauſality in it, and therefore was no part of the duty of the ſubject in relation to that law.

8. 3. If the action commanded by law be in it ſelf indifferent, when the reaſon of the law ceaſes extrinſecally, the whole obligation is taken away, becauſe the act is good for nothing in it ſelf, and good for nothing to the Common-wealth, and therefore cannot be a law. Thus there was an oath fram'd in the Univerſities that no Profeſſor ſhould teach Logic publicly any where but there, meaning that it ſhould not be taught in *Stamford*, whether the Scholars made ſo long a receſſe that it had almoſt grown into an Univerſity. But when the danger of that was over, the oath was needleſſe, and could not oblige, and ought not to have been impos'd. In *Spain* a law was made that no man ſhould cut any timber-trees: in a few years the province grew ſo full of wood that the reaſon and fear of the law was over; and it was more likely to paſſe into inconvenience by abundance then by ſcarcity, and therefore then it was lawfull for any man to cut ſome of his own. So if a law were made for ten years to forbid hunting of wild beaſts, that ſome royal game which was almoſt deſtroyed might be preſerved for the Prince, if in five years the wolves and lions were grown ſo numerous that there were more danger then game, the law were no longer obligatory. For as *Modeſtinus* ſaid well, *Nulla ratio aut juris benignitas patitur, ut quæ ſalubriter pro hominum commodis ſtatuta ſunt, nos duriore interpretatione contra ipſorum commodum producamus ad ſeveritatem*; It is againſt reaſon that what the law decreed for the good of men, ſhould be ſeverely and rigorouſly expounded to their damage. And this is to be underſtood to be true though the reaſon of the law ceaſes onely *negatively*; that is, though the act doe ſtill remain indifferent, and there be no reaſon to the contrary. To which this is to be added, that when the reaſon of a law commanding an action otherwiſe indifferent does ceaſe univerſally, the very *Negative ceaſing* paſſes into the *contrary* of it ſelf: not that it does ſo in the matter of the action, for the action is ſtill indifferent and harmleſſe, but that it does ſo in the power of legiſlation: it does not ſo to the ſubject, but it does ſo to the Prince; that is, the ſubject may ſtill doe it without ſin, but without ſin the Prince cannot command it to be done, when it is to no purpoſe. Thus we find in the Legends of the *Roman* later Saints that ſome fooliſh Priors and Superiors of Convents would exerciſe the obedience of their Monks by commanding them to ſcrape a pibble, to fill a bottomleſſe tub, and ſuch ridiculous inſtances; which were ſo wholly to no purpoſe, that though the Monk might ſuffer himſelf to be made a fool of, yet he was not tied to it in virtue of his obedience, and the Prior did ſin in commanding it. This ought to be obſerv'd ſtrictly, becauſe although it looks like a ſubtilty, yet it is of uſe in the conduct of this Rule of conſcience, and hath not been at all obſerv'd exactly.

l. nulla. ff. de legibus.

9. 4. When the intrinſecal reaſon of a law does ceaſe univerſally, the negative ceaſing of the reaſon paſſes into a contrary; and if the action be not neceſſary, it is not lawfull. For actions which have in them an inter-

nal rectitude have it ſo always, unleſſe the caſe be wholly chang'd, and then it is become very evil. To reſtore that which is depoſited with us is commanded becauſe of the natural juſtice that is in the action; but when the reaſon of this ceaſes, that is, that it is not juſt to doe it, it is unjuſt, or uncharitable: and therefore if you reſtore to a mad-man his ſword to kill an innocent, you are unjuſt to innocence, and but æquivocally juſt to madneſſe and folly.

10. 5. When a law hath many parts, and is a conjugation of duties for ſeveral reaſons, when one of the parts of the law does looſe the reaſon of it wholly, though it be tied in the ſame bundle, and by the ſame tie, yet that part is ſlackened and obliges not, though included in a law which does oblige. The reaſon of this is the ſame with the former; onely this is to be added, that in this caſe it is not one law, but a conjugation of laws; it is not a ſingle ſtarre, but like a conſtellation, and particularly as the *Pleiades*, where one of the ſeven hath almoſt no light or viſibility, though knit in the ſame confederation with thoſe which half the world doe at one time ſee. * And the ſame alſo is the caſe in the ſuſpenſion of a law, that is when the reaſon ceaſes univerſally and wholly, but not for ever: while the reaſon is abſent, the conſcience is not tied to attend; but when it returns to verify the law, the duty returns to bind the conſcience. But in this there is no difficulty.

These are the meaſures of conſcience when the reaſon of a law ceaſes wholly and univerſally, that is, as to the public intereſt; but that which is more difficult, is when the reaſon of the law remains in the general, but it fails in ſome particular caſes, and to particular perſons: and what then is our duty, or our liberty?

11. The reaſon of the difficulty is, becauſe laws are not to regard particulars, but that *quod plerumque accidit*, ſaith *Theophraſtus*; and therefore the private damage is ſupplied by the public emolument: and the particular pretences are not to be regarded, though they be juſt, leſt others make excuſes, and the whole band of diſcipline and laws be broken. *Satius erat à paucis juſtam excuſationem non accipi, quam ab omnibus aliquam tentari*, ſaid *Seneca*; It is better to reject the juſt exception of a few, then to encourage the unjuſt pretenſions of all. And therefore ſubjects ſhould for the public intereſt ſit quietly under their own burden. For *lex nulla ſatis commoda eſt; id modo quæritur, ſi majori parti & in ſumma prodeſt*, ſaid *Cato*. It is a juſt law if it does good to the generality and in the ſumme of affairs. And therefore if *Cajus* or *Titius* be pinch'd in the yoke, they may endure it well, when they conſider the public profit.

12. But this were very true onely in caſe there were no other remedy; but our inquiry here being onely a queſtion of conſcience, which is to be judged by him that commands juſtly in general, and will doe no injuſtice in particular, and can govern all things without ſuffering them to intangle each other, the caſe will prove eaſy enough: for if God does not require obedience to the laws, when the reaſon of the law ceaſes in particular, of them I ſay in whoſe particular caſe the reaſon ceaſes, it is all that is look'd for. Now for this the concluſions are plain.

1. If

13. 1. If the extrinſic reaſon of the law ceaſes in a particular caſe onely negatively, that is, ſo as no evil, grievous burden, ſin, or danger be incumbent upon his perſon, the law retains her obligation and is to be obeyed; becauſe in that caſe, although there be no reaſon in the ſubject matter, yet there is reaſon enough in the reverence of the law, and in a conformity to the public manners of the Nation. Thus when the law forbids a citizen to bear armes in the night becauſe of frequent murders that have been done or are apt to be done by armed night-walkers; he that knows himſelf a peaceable man and that is reſolv'd to offend no body is not bound by the reaſon of that law in his own particular, but he is bound by the law as long as the public is bound whereof he is a part: for if he have no reaſon to the contrary, but onely there is no reaſon for it in his caſe, it is reaſon enough that there is a law in the caſe, which is uſefull to the public, and of great intereſt as to the communities of men. And therefore he that diſobeys in theſe circumſtances cannot be excus'd from contempt of the law: becauſe though his obedience be cauſeleſſe, yet ſo is his diſobedience, and this cannot be innocent, though that can; eſpecially becauſe though the obedience be cauſeleſſe in his own particular in relation to that matter, yet it hath cauſe enough in it in relation to example and the veneration of the laws.

14. 2. If the reaſon of the law ceaſes contrarily, that is, turns into miſchief; then though it ceaſes onely in a particular, in that particular the ſubject whoſe caſe it is, is free (from the law I mean, but not free to obey it.) Whatever we have vowed to religion or the Temple we are bound to perform: but if in the interval of the ſolution my Father or my neareſt relative, or any to whom I am bound to ſhew piety, be fallen into want, or needs my miniſtery, I am bound to doe this firſt, and let that alone till both can be done: and the reaſon is, becauſe I could not bind my ſelf by vow to omit any duty to which I am naturally oblig'd: and therefore though the law that commands payment of vows be juſt, yet it muſt be always with exception of preceding obligations; ſo that if it be certainly a ſin which is conſequent to the obedience of any law, it is certainly no ſin to diſobey it.

15. 3. If the general reaſon of the law remaining, in ſome particular caſes it ceaſes contrarily, but not ſo as to introduce a ſin, but a great evil, or ſuch a one which the law would not have commanded, and the law-giver is ſuppoſed not to have intended, the law does not oblige the conſcience of the ſubject in that caſe. For here is the proper place for equity. In the former caſe it is duty not to obey the law. Either then there is no equity but what is neceſſary and unavoidable; or if there can be any ſhewn or us'd by prudence and great probability, and in mercy, it follows that then it is to be us'd when the yoke pinches the perſon, though it does not invade the Conſcience. And it is not to be ſuppos'd that a ſuperior would have his laws burdenſome to any one beyond the public neceſſity; it being as certainly in his duty to be willing to eaſe ſingle perſons in their private burdens, as to provide for the common intereſt in their great and little political advantages. Τό, τι γὰρ ἐπιεικὲς δίκαιόν τινός ἐστι καὶ βέλτιόν ἐστι δίκαιον, *Equity* is as much law as the law it ſelf, it *is as juſt as juſtice, onely that it is a better juſtice*, ſaith *Ariſtotle*: it is not δίκαιον νόμιμον *the legal juſtice*, but ἐπανόρθωμα νομίμου δικαίου, *a rectification and an amendment of it.* Ethic. l. 5. c. 10.

——*Bonum jus dicis*;

Plaut. Stich. *Impetrare oportet, quia æquum poſtulat,* ſaid he in the Comedy; *It is fit that you prevail, you ask reaſon & equity.* That's *bonum jus*; it is juſtice & mercy in a knot. Thus if a Church commands ſuch ceremonies to be us'd, ſuch orders, ſuch prayers, they are to be obſerv'd when they may; but if I fall into the hands of an enemy to that manner of worſhip, who will kill or afflict me greatly for uſing it, I am in that caſe diſoblig'd. For though this caſe be not excepted in the law, yet it is ſupplied by the equity and correction of the law: ὀρθῶς ἔχει, ἢ παραλείπει ὁ νομοθέτης καὶ ἡμάρτεν ἁπλῶς εἰπών, ἐπανορθοῦν τὸ ἐλλειφθὲν, *it is fit that when the law-giver hath commanded abſolutely and indefinitely, he ſhould in caſes of particular evil make proviſion and correct what was amiſſe or omitted by the law.* For εἰ ἤδει ἐνομοθέτησεν ἄν, ubi ſupra. ſaies *Ariſtotle*; if he had known of it before he would have provided for it before-hand: and becauſe he did not, ὁ καὶ νομοθέτης ἔτως ἂν εἴποι ἐκεῖ παρὼν, if the law-giver were preſent, he would uſe equity and give leave to the grieved ſubject to eaſe himſelf. And therefore ſince it is reaſonable to ſuppoſe that if it had been thought of, this very caſe would have been provided for in the law; and if the law-giver were preſent he would declare the law in that caſe not to oblige; it follows undeniably, that the law binds not any man to a great inconvenience in his own perſon, though otherwiſe, and as to the public, it be a juſt and a good law, of a remaining reaſon and a remaining obligation. In order to this conſideration, that is uſefull which hath been already ſaid in the firſt Chapter of this book, in the ſecond and third Rules.

16. 4. If the reaſon of the law ceaſes in a particular, ſo that without ſin it may be obeyed, and without any great and intolerable evil to the obedient, yet ſometimes the law does not intend to oblige in the particular caſe, even when there is a little inconvenience, or but a probable reaſon to the contrary; and this is in things of ſmall concernment. I ſhould inſtance in rituals and little circumſtances of Eccleſiaſtical Offices and forms of worſhip, in the punctualities of Rubrics, in the order of Collects, in the number of prayers, and fulneſſe of the Office upon a reaſonable cauſe or inducement to the omiſſion or alteration: for theſe things are ſo little, and ſo fit to be intruſted to the conduct of thoſe ſober, obedient and grave perſons, who are thought fit to be truſted with the cure of ſouls; and theſe things are always of ſo little concernment, and ſo apt to yield to any wiſe mans reaſons and ſudden occaſions and accidents, and little and great cauſes, that theſe were the fitteſt inſtances of this rule, if Superiors, for want of great manifeſtations of their power, would not make too much of little things. But the purpoſe and declar'd intention of all juſt laws and juſt governments is in theſe things to give the largeſt interpretation to perſons of a peaceable mind and an obedient ſpirit, that ſuch circumſtances of miniſteries may not paſſe into a ſolemn religion, and the zeal of good men, their caution and their curioſity, may not be ſpent in that which does not profit. But the meaſures of practice in this particular muſt be taken from the manner and circumſtances of the government, and the uſual diſpoſition of the law. In many caſes an equity may be preſum'd; but if it be explicitely denyed, it muſt not be us'd.

Queſtion

Queſtion.

17. But upon the inſtance of theſe particular rules it is to be inquir'd, *whether in theſe caſes the ſubject is ſo quitted from the obligation of the law, that without further leave he may uſe his liberty, or muſt he require it of his Superior?*

18. To this I anſwer, that *if the caſe be evident*, the ſubject may uſe his liberty: for if he ſhould be tied to goe to his Superior, it is either to ask of him that the law ſhould not bind him, or that he may declare that the law in his caſe does not bind, or to promulgate and publiſh the law in that particular. Not to ask leave that the law ſhall not bind, for of it ſelf it ceaſes, and it was never intended to bind againſt equity and reaſon. Not for declaration, becauſe the caſe is here ſuppos'd to be evident. Nor yet laſtly for promulgation, becauſe that is onely neceſſary in the ſanction and revocation of laws which depend upon the will of the Prince; whereas in this caſe the law ceaſes by natural juſtice and the nature of the thing, and the reaſons of equity.

19. 2. But if the caſe be doubtfull, and it is not evident whether the particular caſe ought to be excepted in the general law, then we are to conſider whether it be a doubt of fear onely or a doubt of reaſon, that is, whether it be nothing but an unjuſt fear, or relies upon juſt grounds; for ſome men may eaſily perceive in themſelves a diffidence in any thing, not that they have reaſon to cauſe their fear, but becauſe they dare not truſt the greateſt reaſon that they either have or hear. If it be onely a doubt of fear, then it is to be conducted by the rules given concerning a ſcrupulous Conſcience: Vide lib. 1. cap. 5. & 6. If it be a fear of reaſon, we are to manage it by the meaſures of a doubting Conſcience. But if he ſuppoſes upon probable inducements that he is not obliged, then according to the nature of the probability we are to proceed. For if he believes it as probable that ſuch a caſe ought not to be comprehended in the law, as ſuppoſing it to be a ſin that in his caſe would be commanded, or too great a burden impos'd, and ſo to be beyond the power of the law-giver, then the ſubject may of himſelf be free, without recourſe to his ſuperior. The reaſon is, becauſe to avoid a ſin, or to doe a great charity to our ſelves, a probable reaſon is a ſufficient inducement, provided a more probable reaſon be not oppos'd againſt it, we being commanded, to avoid all appearance of evil. Now if this opinion be the more probable that by obeying the letter of the law in my caſe I ſhould ſin, it muſt needs *appear* to be an evil to doe it, and not to obey the law in this caſe does not *appear* to be an evil, as being the leſſe probable: for if the opinions be equally probable, then the conſcience is in doubt, and is to proceed by meaſures fitted to a doubting conſcience: but when I ſay there is a greater probability and a leſſe, the greater muſt carry it; and therefore the law is not to be obeyed, it being here ſuppos'd to be the more probable opinion that the obedience would produce a ſin. So alſo in the caſe of a great burden or intolerable preſſure, the preſumption is for eaſe; and the law-giver is to be ſuppoſed good and gentle and reaſonable; and beſides, it is ſuppoſed as the more probable opinion that the law-giver hath not power to make a law or to oblige to ſo much inconvenience, and then the caſe is the ſame.

* But

* But if he believes it as probable that to oblige in the preſent caſe was not in his will, but it is certain that it was in his power, then the caſe is ſo that the ſubject may without injuſtice or violence obey it; and therefore ought not to uſe his liberty by his own opinion, but by recourſe to his ſuperior that hath power to declare the intention of the law.

20. In the firſt caſe if it be eaſy and convenient to goe to the Superior, or that there is time enough and all things fitted, it were the ſurer way to require his ſentence. But if there be not time, and the action urges by haſtineſſe, or neceſſity, or preſent opportunity, the liberty is as preſent as his need. But in the ſecond caſe, (which is oftentimes harder to know then the firſt, it being more difficult to pronounce definitively concerning the will of the law-giver which is free, then concerning his power which is not free,) when it is onely probable that the law-giver is willing, it is not ſafe to venture upon the not-obeying, without recourſe to the Superior. Becauſe our innocence depending wholly upon his will, and there being no ſin in keeping the law, we may ſafely doe this; but we cannot ſafely diſobey without being more aſſured of his leave: and therefore if it be opportune and eaſy to have recourſe to our competent Superior, it is worth our paines to goe and inquire; if it be not opportune, it is worth our ſtay till it be; for the ſecuring our duty and the peace of conſcience are intereſts much greater then the uſing of an unneceſſary liberty.

21. 3. But in theſe caſes of uncertainty, when we are not confident of a juſt liberty by the force of reaſon and the nature of the thing, we may juſtly preſume that the Superior does not intend to oblige in all thoſe caſes in which he uſually and of courſe diſpenſes; that is, when his diſpenſation is not of ſpecial favour, but of ordinary conceſſion; becauſe as in the firſt caſe it is ſuppos'd a gift, ſo in this latter it is ſuppos'd a juſtice. For example, A law is made to keep ſo many faſting-days. *Mævius* is a hard ſtudent, and feels himſelf ſomething ill after faſting, and believes it will not be for his health; but yet things are ſo with him, that he can obey the law without great or apparent miſchief, but yet he probably believes that the law-giver would not have him bound in this caſe. If he perceives that they that have recourſe to the Superior in leſſe needs then his, are ordinarily diſpenſed with, then he hath reaſon enough not to goe to his Superior; for it is already declar'd that he does not intend to bind in his and the like caſes. This is evident, and the beſt meaſure that I know in ſuch caſes. It is the ſureſt, and the largeſt, and the eaſieſt.

22. 4. When the recourſe to a Superior for declaration of the caſe hath in it great difficulty or inconvenience, though the cauſe of exception from the law be not very great, yet if together with the inconvenience of addreſſe to the Superior it make up an unequal burden, and ſo that the particular caſe ſeem very probable to be excepted, and that in it the legiſlator did not intend to bind; it is ſufficient to conſult with wiſe men and good, and by their advice and anſwers, as by extrinſecal cauſes of probability, or by any other juſt and probable cauſe of determination, to uſe our liberty, or to obey. The reaſon of this is plain neceſſity. Becauſe we have no other way of proceeding, but either we muſt in this, as in almoſt all the other caſes of our life, be content with the way which to us ſeems the more probable; or elſe if we were tied to make it ſecure, our lives and conditions would

would be burdenſome and intolerable, and the whole proceſſe would be a ſnare and torment to a conſcience: the Superior, who is to be conſulted, it may be, not being within 40 miles of us; or when we come, it may be he is of difficult acceſſe, or otherwiſe imployed, and it will be impoſſible for many to be heard by him, if all in the like caſes were bound to conſult him; or it may be when we goe, we ſhall not be admitted, or if we be, it may be we ſhall not be eas'd unleſſe we carry along with us the rewards of Divination in our hands, and we are poor; or it may be the matter requires haſt, and cannot ſtay the leiſure of the Oracle; and beſides all this, the greateſt part of the actions of our lives are not ſo well conducted as to be determin'd by the conſultation of a wiſe man, but we doe them of our own head, and it may be of our own heart, without conſideration: and therefore it is a prudent courſe to proceed this way: and he that in ſuch caſes ties the conſciences to proceed more then prudently, and thinks that prudence is not a ſufficient warrant, does not conſider the condition of humane nature, nor the neceſſities of a mans life, nor the circumſtances of his condition, nor the danger of an unquiet and a reſtleſſe conſcience.

23. Upon occaſion of this ſubject, viz. the alteration of humane laws by the interpretation and equity of reaſon, it is very ſeaſonable, and very uſefull to conſcience, to inquire whether by the ſimilitude of reaſon the law may not as well receive advantage and extenſion, as well as the ſubject can receive liberty and eaſe. That is,

Queſtion.

Whether the obligation of the law does extend it ſelf to all caſes that have the ſame or an equal reaſon, though the caſe be not comprehended directly in the law.

To this the anſwer is by ſeveral Propoſitions.

24. 1. In laws declarative of natural right or obligation, the obligation extends to all things of equal reaſon, though they be not comprehended under the law. Thus becauſe we are bound by the laws to pay honour and gratitude to our parents for their nouriſhing of us and giving us education, the ſame duty is to be extended to thoſe perſons who took care of us when our parents were dead, or that took us in when we were expoſed; and children are to pay a proportionable regard even to their Nurſes; and *Moſes* was for ever oblig'd to *Pharaohs* daughter, becauſe ſhe reſcued him from drowning, and became as a Mother to him. And the reaſon of this is, becauſe in theſe things there is a natural rectitude, and a juſt proportion between the reaſon and the event; the reaſon of the thing is the cauſe why it was commanded. But in laws diſpoſitive or introductive of a new obligation there is ſome difference. Therefore,

25. 2. In odious caſes, and eſpecially in penal laws, the extenſion of the reaſon does neither extend the obligation nor the puniſhment; according to that gloſſe in the Canon law, *In pœnis non arguimus ad ſimilia, quia pœnæ non excedunt proprium caſum.* Puniſhments and odious burdens muſt not exceed the very caſe ſet down in the law: for if in the caſes ſet down the Judges are to give the gentleſt meaſure, it is not to be ſuppos'd that they can be

Gloſſ. in cap. in pœnis. 49. de reg. jur. in 6.

be more ſevere then the letter of the law, which it ſelf requires an abatement and allay when it is capable: and as it is with Judges in the puniſhments appointed by law, ſo it is with all the ſubjects in the obligation of the law. For in both theſe caſes, it is to be preſum'd that the mind of the law-giver was not to oblige or to puniſh more and in more caſes; for *ſi voluiſſet, expreßiſſet*, is a good preſumption in theſe things, he could as eaſily have ſpoken that as this, if he had intended both alike; and he would, becauſe he knows that in odious things every one is willing to take the eaſieſt part: and therefore that is a good warranty to preſume of the mind of the law-giver; eſpecially ſince the apportioning ſuch a puniſhment to ſuch a fact hath in it no natural neceſſity, but depends upon the will of the law-giver, and therefore is not to be extended by a participation of the reaſon, but by a declaration of the will.

26. 3. When there is a defect in the law, and the public neceſſity or utility requires a ſupply, it may be ſupplied, and the obligation and the judgements even in matters of burden can be extended by the ſimilitude and parity of reaſon; for in this ſenſe it is true which the lawyers ſay, *Caſus ſimilis expreſſo non cenſetur omiſſus.* If it was omitted onely in the law, by the imperfection of it's ſanction, or want of conſideration, the Commonwealth muſt not ſuffer detriment, and therefore is to be help'd by the parity of reaſon. But then it is to be obſerv'd, that this is not wholly for the force and conſequence of the reaſon of the law, but for the neceſſity and profit of the republic, and therefore the ſupply is to be made by juriſdiction rather then by interpretation: ſo ſaith the law, *Is qui juriſdictioni præeſt, ad ſimilia procedere, atque ita jus dicere debet, The Præfect that hath juriſdiction muſt doe right by proceeding to the like caſes:* ſo that the juriſdiction and power is the ſufficient and indeed the adequate efficient of this ſupply; onely by the ſimilitude of reaſon he that hath juriſdiction can take occaſion to doe right. *Quando lex in uno diſponit, bonam eſſe occaſionem cætera quæ tendunt ad eandem utilitatem vel interpretatione vel certâ juriſdictione ſupplendi*; The Law having made proviſion in one caſe, it is a good occaſion to ſupply other caſes which tend to the ſame advantage; but this ſupply is to be made either by interpretation, if it can, or if it cannot, then by certain juriſdiction and authority. So that here are three things to be conſidered in this extenſion of obligation. The one is, that the law be defective and need ſupply. The ſecond is, that the ſupply be for the ſame utility and advantage which is in the expreſſed caſe of the law. And the third is, that if it cannot be by interpretation, that is, if it cannot be done by force of ſomething contained in the law, but that there be a very defect in the law, it be done by the force of authority: for the ſimilitude of reaſon is not enough, and therefore either the ſupreme, or a juriſdiction delegate with this power in ſpecial, is neceſſary. But where there is ſuch a power, the way of doing it is *procedendo de ſimilibus ad ſimilia*, the occaſion of ſupply muſt be taken from the ſimilitude of the reaſon. But this I ſay is to be done either in caſes of public neceſſity, or great equity and queſtions of favour. In other caſes there are yet more reſtraints.

l. non poſſunt. ff. deleg.

l. nam. ff. eod.

Gloſſa in legem prædict.

27. 4. A ſimilitude of reaſon (except in the caſes now expreſſed) does not extend the law to caſes not comprehended in the words and firſt meaning of the law. For *ratio legis non eſt lex, ſed quod ratione conſtituitur*, ſay the Lawyers, *Every thing that is reaſonable is not preſently a law, but that is*

Albertus Bologneti Bonon. in Tract. DD.

the

the law which for that reaſon is decreed. And when a thing is propounded to a Prince, it is in the body politic as in the body natural, though the Underſtanding propound a thing as reaſonable, the Will ſtil hath power to chuſe or to reject it; and there may be reaſon for the thing in one regard, and reaſon againſt it in another; and if the reaſon in both caſes onely be alike, they are alſo unlike. *Omne ſimile eſt etiam diſſimile.* For *Titius* contracts friendſhip with *Callinicus* becauſe their Fathers were fellow-Souldiers in the *Parthian* warre, and they lov'd well: but *Titius* refuſes to contract the ſame league with *Catulus*, although the like reaſon was for him, his Father having been in the ſame legion in the ſame warre: but *Catulus* was an ill-natur'd man, and not fit to be entertain'd into ſuch ſocieties.

18. 5. The Conſcience is not bound to a greater duty then is expreſs'd in the words and firſt meaning of the law by the proportion and communication of the reaſon, unleſſe the reaſon be not onely alike, but be abſolutely the ſame in both caſes; and not onely ſo, but that the reaſon was adequate to the law, that is, was the reaſon which actually and alone did procure the ſanction of the law. When *Cæſar* took in a town in *Gallia Narbonenſis*, he deſtroyed the walls, and commanded they ſhould not build any more walls: they conſented, but caſt up a great trench of earth; and he came and fir'd their Town, becauſe although a trench of earth was not in the words of the contract or prohibition, yet becauſe *Cæſar* forbad the rebuilding of the walls for no other reaſon but becauſe he would not have it fortified, the law againſt walls was to be extended to trenches alſo for the identity of an adequate reaſon. To the ſame purpoſe is that of *Quintilian*, *Cædes videtur ſignificare ſanguinem & ferrum: ſi quis alio genere homo fuerit occiſus, ad illam legem revertemur.* A law againſt murder does commonly ſignify ſhedding of his bloud; but if a man have his neck broken, or be ſmother'd with pillows, or ſtrangled with a bow-ſtring, he ſhall be avenged by the ſame law that forbad he ſhould be killed with a knife or dagger: for it was not the inſtrument or the manner which the law regarded, but it wholly intended to ſecure the lives of the ſubjects. in declam. Paſtris.

19. 6. Now this identity of reaſon muſt be clear and evident, or elſe it effects nothing; for in matters of doubt the preſumption is for liberty and freedome. But it commonly is beſt judg'd by one or more of theſe following caſes. 1. The relative and the correlative are to be judg'd by the ſame reaſon when the reaſon of the law does equally concern them, though onely one be named in the proviſion of the law. If the husband muſt love the wife, the wife muſt love the husband, though ſhe were not nam'd in the law. For here they are equal. But in ſuperior and inferior the reaſon cannot be equal, but therefore is onely to be extended to the proportion of the reaſon. A Son muſt maintain his Father that is fallen into poverty, and ſo muſt a Father a Son: but they are not tied to equal obedience; to equal duty they are, but not to equal ſignifications and inſtances of it. A husband muſt be true to his wives bed, and ſo muſt ſhe to his; but ſhe may not be admitted to an equal liberty of divorce as he is: the reaſon is, becauſe the duty is equal, but the power is unequal; and therefore the conſequents of this muſt differ, though the conſequents of the other be the ſame. 2. The identity of the reaſon is then ſufficient for the extenſion of the law when one thing is contain'd under another, a particular under a general, an imperfect under a perfect, a part under the whole.

3. When the caſes are made alike by the effort of other laws. 4. When the law ſpecifies but one caſe for example ſake, the reſt alſo of the ſame nature and effect are comprehended. 5. When the caſes are radicated in the ſame principle, and are equally concerned.

30. 7. What is here ſaid concerning *caſes* and *actions* is alſo to be underſtood not onely of *perſons*, which cannot be ſeperated from the conſideration of *actions* which are always perſonal, but of *places* and *times*, when the analogy and force of the reaſon or the words require it. Onely each of theſe is to obſerve their proper caution. * *Places* are equally included in the meaning of the law, though they be not expreſs'd in the words of the law, if they be within the juriſdiction of the law-giver, that is, within the capacity of the law*. * But the caution concerning *time* is this, That although in laws declarative there is no difference of time, becauſe there the preſent law is not the meaſure of our duty, but ſuppoſes the duty limited and preſcrib'd before (*nihil enim nunc dat, ſed datum ſignificat*, ſaith the law in this caſe;) yet laws conſtitutive or introductive of a new right or obligation never of themſelves regard or can be extended to what is paſt, becauſe this is not in our power, and is not capable of Counſel or Authority; but they can onely be extended to the future: but the allay is this, for this is to be underſtood onely in precepts and prohibitions, but not in matters of indulgence and favour; for in this it is quite contrary: what the law hath forbidden in time paſt or preſent, and what ſhe hath or doth command is to be extended to the future; but *Cum lex in præteritum quid indulget, in futurum vetat*, When the law gives a pardon for what is paſt, and this pardon relies upon a proper reaſon, there is no leave given for the future to doe ſo though the ſame reaſon ſhall occurre; for the pardon of what went before is a prohibition of what is to come hereafter.

* See Chapter 1. Rule 8. of this book.

l. hæredes. § 1. ff. de Teſtam.

l. Cum lex. ff. de legib.

31. 8. When a law is made to take away an evil, it is to be underſtood alſo, and to be extended to all caſes of prevention, and from an actual evil paſſes on to a probability. When *Antiochus* agreed that *Ptolemy* ſhould not bring an army into *Syria*, he did not onely intend to remove the preſent hoſtility that he fear'd, but he intended alſo that he ſhould not bring any at all, though for paſſage onely through his Country; becauſe if his army were at all in *Syria*, he was in danger of ſuffering what by his treaty he deſir'd to prevent.

32. 9. Whatſoever is ſaid in laws is alſo true in promiſes and contracts: for theſe are laws to the contractors and intereſted perſons, and to be meaſur'd by the ſame proportions. For when the adequate reaſon of a promiſe or contract is evidently extended to another inſtance though not nam'd in the contract, it muſt be perform'd and ſuppos'd as included in the ſtipulation, and ſo ſtill in ſucceeding and new-ariſing inſtances; and the ſtate of things is not changed ſo long as that adequate reaſon remains for which the obligation was firſt contracted, though the thing be varied in a thouſand other circumſtances and accidents. But of this I ſhall have better opportunity to ſpeak in the laſt book.

33. I onely adde this one thing, That there is great caution to be us'd in determining our caſes of Conſcience by the meaſures of the reaſon of a law. For *Non omnium quæ à Majoribus conſtituta ſunt ratio reddi poteſt*, ſaid *Julian*.

Julian. It will be hard to find out what was the reason of the laws made by our forefathers; and unlesse the reason be expressed in the law, our conjectures are very often so wild and far amisse, that they will be very ill measures of conscience or obedience. *Et ideo rationes eorum quæ constituuntur inquiri non oportet, alioquin multa ex iis quæ certa sunt subvertentur.* We must obey the law, and never inquire after the reason, unlesse the law of it self declares it: it is not good to examine, for by this means many clear laws are made obscure and intricate. *Delicata est illa obedientia quæ causas quærit.* The law-giver is mov'd to the sanction of the law by the reason of the thing, but the sanction of the law is to be the onely reason of our obedience. ff. de leg.

§. 4. *Dispensation.*

RULE IV.

The Legislator hath authority to dispense in his own laws for any cause that himself prudently shall judge to be reasonable, so that no distinct interest be prejudic'd or injur'd.

1. *Dispensation* differs from *interpretation* of laws, because this does declare the law in certain cases not to bind; but *dispensation* supposes the law in actual obligation, not onely in general, but in this case, and to this person; and it is but like the old man in the fable his laying aside his burden of sticks, which he is bound to carry with him to his long home unlesse some friendly person come to help him. But Dispensation differs from diminution of laws by a ceasing or a contrary reason, because the law ceases of it self in this case, but in dispensation wholly by the will of the Prince. And lastly it differs from equity, because equity is law, *melior lex*, but dispensation is a remission of the law; and the cases of equity are such as by justice must be eas'd, but in dispensations there is nothing but benignity and favour. So that *Dispensation is a voluntary act of the Princes grace and favour, releasing to any single person or community of men the obligation of the law, others at the same time remaining bound, not onely in other cases, but in the same and in the like.* For although the same and the like cases of equity doe procure remission to all alike, yet in dispensations it is not so. One may be eased, and another not eas'd in the very same case. And the not understanding or not considering this great and material difference hath caus'd so great errors both in the understanding and in the ministeries of dispensation.

2. For if we use the word improperly, *Dispensation* can signify a declaration made by the superior that the subject in certain cases is not oblig'd, that the law-giver did not intend it: but this is interpretation of laws, or a declaration of the equitable part of the law, and is not properly an act of authority, but of doctrine and wisedome; save onely that that doctrine and that wisedome shall be esteemed authentical, and a warranty in doubt-

full caſes: but if the ſubject did know the meaning of the law, as in moſt caſes he may, his conſcience is of it ſelf and by the intention of the law at liberty without any ſuch declaration; for that liberty is from an intrinſic cauſe, that is, from the natural equity and reaſonableneſſe of the caſe, and therefore claims nothing but what the law intends and ought to intend in its very ſanction. Now in theſe caſes to require diſpenſation, is to ask more then is needfull; it is as if one ſhould deſire his friend to untie his girdle when his cloths hang looſe about him: he needs it not; but that the wiſdome and charity of the law is made an artifice to get mony, and to put the ſubject to ſcruples and trouble that he may get his eaſe.

3. But when Diſpenſation ſignifies properly, it means an act of mere grace and favour, proceeding from an extrinſic cauſe; that is, not the nature of the thing, or the merit of the cauſe, but either the merit of the perſon, or ſome degrees of reaſonableneſſe in the thing; which not being of it ſelf enough to procure the favour of *the law*, is of it ſelf enough to make a man capable of the favour of *the Prince*; and if *this* be *authority* enough, *that* is *reaſon* enough. For ſince diſpenſation is an act of mere juriſdiction, and not of doctrine or skill and wiſedome and law, that is, it is not declarative of ſomething already in being, but effective of a leave which is neither unreaſonable nor yet due, ſo that it is not an act of juſtice, but of mercy and favour upon a fair and worthy occaſion; it muſt follow that the reaſon and cauſes of diſpenſation muſt be ſuch as are not neceſſary: but probable and fit to move a Prince they muſt be, leſt he doe an unreaſonable act.

4. All thoſe diſputes therefore amongſt the Civil and Canon Lawyers and the Divines, Whether the Prince ſins in diſpenſing without juſt cauſe, or the ſubject in deſiring it or uſing it without juſt cauſe; Whether if the cauſe be not that which they are pleas'd to call juſt, the diſpenſation be valid, and very many more, are inquiries relying upon weak grounds, and tending to no real purpoſe. For ſince the cauſe need not be neceſſary, but probable, it will be very hard if the Prince can find out no probable reaſon for what he does, and harder yet to imagine that he ſhould doe it at all, if he have not ſo much as a probable reaſon why he does it; and ſince the reaſon of diſpenſation is extrinſic to the cauſe or matter in hand very often, or elſe is but occaſion'd by the matter in hand, as moſt commonly it is in wiſe and good governments, it will be impoſſible but that the Prince will have reaſon enough to doe an act of kindneſſe in his own affairs and matters of his own diſpoſing: the Princes will being enough to ſatisfy us, and any good reaſon within or without being ſufficient for him if it does move and determine his will, the conſequent will be, that the Conſcience ought to be at reſt, without curious inquiry into the cauſe, if it have a diſpenſation from a juſt and competent authority.

5. And indeed it is not eaſy that the Prince can be reprov'd for the inſufficiency of the cauſe of diſpenſation: for a diſpenſation is not neceſſary to the conſcience at all, when the cauſe it ſelf is great and ſufficient for equity; but then it is neceſſary for the avoiding of ſcandal or civil puniſhments in ſome caſes, that there be a declaration of liberty & equity: but to diſpenſe is onely then proper and a fitting miniſtery 1. when the law is ſtill uſefull and reaſonable to one or more good purpoſes, but accidentally becomes

comes an impediment of a greater good; or 2ly, when it is doubtfull whether the cauſe of equity and legal remiſſion without asking leave be ſufficient, for in this caſe, if the ſuperior diſpenſes, he ſupplies by favour what is wanting in the merit of the cauſe, and makes the conſcience ſure when the queſtion it ſelf was not ſure; or 3ly, to reward a vertue, or the ſervice of a worthy perſon, or to doe honour or favour, mercy and benignity upon the occaſion of any reaſonable conſideration. Theſe being all the cauſes of proper diſpenſations, it will be hard that every thing of this ſhould be wanting, or that what moves a prudent Prince to doe it, ſhould by the ſubject not be thought ſufficient, eſpecially ſince no man is judge of it but he that does it: and therefore he that ſaies the diſpenſation was for an inſufficient cauſe, hath no ſufficient cauſe to ſay it; it may be evil in the manner, or in the exceſſe, or in the event, but not in the moving cauſe, becauſe a little cauſe is ſufficient, and therefore a little cauſe cannot ſuffice to blame it. *Nullius ſenſus eſſe præſumitur qui ſenſum vincat principalem.* The ſubjects opinion can never overcome the opinion of the Prince in thoſe things where the Prince is Judge. l. fin. C. de legib.

6. There is onely this to be added, That he that diſpenſes with a law to particular perſons be carefull that it be in a matter wholly in his own power, and make no intrenchment upon religion ſo much as collaterally, ſo far as he can perceive, nor yet that any man be injur'd by it. And therefore if a Prince diſpenſes with any one in the matter of tribute, he muſt abate it from his own rights, and not lay it upon others, to their conſiderable and heavy preſſure. If it be inconſiderable, no man is to complain, but to indulge ſo much to the Princes reaſon and to the man whom the King will honour; but if it be conſiderable and great, the Prince ought not to do it, but upon ſuch a reaſon which may repay the private burden by the public advantage: and the reaſon of this is not, becauſe the Supreme power cannot diſpenſe with his own laws without great cauſe, but becauſe he cannot diſpenſe with other mens rights. And therefore when by the laws of Chriſtendome the Tiths were given to the Curates of ſouls of all the fruits ariſing in their pariſhes, it was unjuſtly done of the Pope to exempt the lands of the *Ciſtertians* and ſome other Orders from paying that due to the Pariſh Prieſt: for though he that hath a juſt power may uſe it for the benefit of his ſubjects, yet he may not uſe the rights of others and give away that which is none of his own, to eaſe one and burden another. In caſes of public neceſſity this may be done, but not for pleaſure, or a little reaſon. And therefore diſpenſations muſt be ſparingly granted, becauſe if they be eaſy and frequent, they will oppreſſe by their very numbers. *Diſpenſationum modus nulli ſapientum diſplicuit*, ſaid the Canon law. That which is but ſeldome and in ſmall things, or in little degrees, will be of no evil effect, and that which may greatly profit one or two will be no burden to a Common-wealth; but if it be often done, and to many, it may be of evil conſequent, and therefore ought not to be done, but upon a cauſe ſo weighty, that the good effect of the cauſe may prevail above the preſſure of the diſpenſation: for though this may be favour to one or to a few, yet it is juſtice to all. But if the diſpenſations be in matters of government, or cenſures, or favours and meer graces, where ſome are benefited and no man is injur'd, as in taking off irregularities, perſonal burdens which return to no mans ſhoulders, in giving graces beyond the uſual meaſures of laws, diſpenſations in time, in ſolennities of law, giving what by law could not be claimed; in theſe and the like the 1. q. 7.

Prince as he hath ſupreme power, ſo his good will being mov'd by any reaſonable inducement is warrant enough for him that gives it, and for him that uſes it.

§. 5. *Commutation.*

Rule V.

The ſame power that can diſpenſe, can alſo commute a duty; and as in the firſt it eaſes, ſo in the latter it binds the Conſcience.

1. Commutation is nothing but a kind, or rather a particular manner of diſpenſation; and therefore hath in it no particular conſideration differing from the former, but onely ſuch prudential advices as are uſefull to the miniſtery and conduct of it.

2. For Commutation is a changing of the burden of the law into an act of, it may be, a greater uſefulneſſe but a leſſe trouble. Thus when a public penance is enjoyn'd to a lapſed perſon, who by a public ſhame would be hardned or oppreſſed, the Church ſometimes diſpenſes in the obligation, and changes it into almes, *ut ſolvat in ære, quod non luit in corpore*, that the fruit of his labours may goe for the ſin of his ſoul, and an expenſive almes may be taken in recompence of his exteriour humiliation.

3. 1. But this muſt be done ſo as may be no diminution to religion, or to adde confidence to the vices of great perſons, who ſpend much more in the purchaſes of their luſt then in the redemption of their ſhame, and therefore think they eſcape with their ſin, when they enjoy it at a price.

4. 2. It muſt be done never but upon conſiderations of piety and great regard; not becauſe the ſinner is powerfull or rich: for though in matters of commutative juſtice neither the rich man is to be regarded for his riches, nor the poor man for his poverty; yet in matters criminal and of diſtributive juſtice the rich man is leſſe to be eaſed, when the indulgence makes the crime more popular and imitable by the greatneſſe of the evil example; but he is more to be eaſed, when the puniſhment will by reaſon of his greatneſſe of honour be too unequal a diminution to him, and cauſe a contempt greater then the intention of the law.

5. 3. The commutation of the puniſhment impoſed by law muſt at no hand be done at a ſet price before-hand, or taxed in penitentiary tables, and be a matter of courſe, or indifferent diſpenſation: for when men know the worſt of the evil, which they fear, to be very tolerable and eaſy, it is an invitation, and does tempt to the ſin. But therefore this muſt be done by particular diſpenſation; not eaſily, not to all, not to many, not at all for the price, but to relieve the needs of him who is in danger of being ſwallowed by too great a ſorrow.

4. Commu-

6. 4. Commutations are not to be impos'd but when the diſpenſation is ſomething of eaſe in a law of burden; for then to change it into a leſſe burden is a diſpenſation by a commutation of which it is properly capable. Thus when abſtinence from fleſh is enjoyn'd by a law, it may be upon good ground diſpens'd withall and chang'd into an abſtinence from wine or ſtrong drink, or ſociety, or into almes. But when laws are made which contain in them no burden, but are in order to ſome end of perſonal or publick advantage, ſome end of vertue, or caution, or defence, then either the diſpenſation (when it is reaſonable to be requir'd) muſt be without commutation; or if it be not, the commutation muſt be made into ſomething that ſhall contribute to the end intended in the law. Thus if any one hath reaſon to deſire to be diſpenſed with in the publication or trine denunciation of an intended marriage, it is not reaſonable, nor according to the intention and wiſedome of the law, to change that law into a taxe of money, though for almes and religion; but it may be done by commanding them to abſtain from mutual congreſſe till the ſecret marriage can prudently be made public; becauſe this commutation does in ſome degree ſecure the end of the law, and makes ſome amends for want of publication of the bannes. If a Deacon have reaſon to deſire to receive the Order of Prieſthood from one that is not his own Dioceſan, the Biſhop that diſpenſes with him cannot prudently or juſtly require of him to give a ſumme of money for the reparation of a Church, becauſe that, though it be a good work, yet it is not in the ſame matter, nor does it cooperate toward the wiſe end of the law: but he does well, if he enjoyns him to procure and carry along with him greater teſtimonials of his converſation and worthineſſe, and that he publiſh his intention to all his own neighbourhood, that they may, if they ſee cauſe, object againſt him; and he may not be promoted by a clancular ordination.

7. 5. I might adde here, that in commutations the pretences of charity and almes and religion muſt not be the cover of avaritious practices and deſignes; but that this, although it be uſefull in reſpect of the corrupted manners of men, yet it is nothing to the explication of this Rule.

§. 6. *Contrary Cuſtome.*

RULE VI.

A Cuſtome can interpret a law, but can never abrogate it without the conſent of the Supreme power.

1. THe doctrine of Cuſtomes both in divine laws and in humane, I have already explicated, ſo far as concerns their poſitive power, and the power of binding the Conſcience to obedience and complying. That which now is to be inquir'd is concerning their power to diſoblige and ſet at liberty: and even this alſo may very well be eſtimated by thoſe poſitive meaſures, and hath in it not very much of ſpecial conſideration, ſave this

Book 2. Chap. 3. Rule 19. & Book 3. Chap. 4. Rule 15.

onely, that there is very great reason of dissenting from the commonly-received doctrine of the power of customes in this very particular.

2. For although by the consent of all the world custome can introduce a law, according to that saying of *Tertullian*, *Consuetudo in rebus civilibus pro lege suscipitur, cum deficit lex*, When there is no law, it is supplied by custome; and this is so far to be extended, that if the custome be reasonable, and antecedent to a law, it shall remain after the making of a law in that very matter, *nisi expressè caveatur in ipsa*, unless the law does expressely cancell it by particular caution: yet when a law is established and is good, the force of custome is not sufficient of it self to annul it, and to cancel the obligation of Conscience.

de Coron. milit.

c. 1. de constitut. in 6.

3. A custome can interpret a law. *Si de interpretatione legis quæratur, inprimis inspiciendum est, quo jure civitas retro in hujusmodi casibus uteretur*, saies the law. For it is to be suppos'd that the law was obeyed, and in that sense in which the law-giver intended it; and that the people doe their duty in things of public concern is a just and a legal presumption: and therefore nothing is more reasonable in questions concerning the interpretation of a law, then to inquire how the practice of the people was in times bygone, because what they did when the reason and sense of the law was best perceiv'd, and what the law-giver allowed them to doe in the obedience of it, may best be suppos'd to be that which he intended. Upon this account, the judg'd cases in law are the best indication of the meaning of the law; because the sentence of the Judges does most solemnly convey the notice of a custome, and allow it reasonable, and by those customes does interpret the law, so that they give aid each to other; the custome gives assistance to the Judges in understanding the meaning of the law, and the Judges giving sentence according to the custome declare that custome to be reasonable; according to that in the *Spanish* laws, *That custome is for ever hereafter to be observed, si secundum eam bis judicatum fuerit, if there have been two sentences pronounced according to the custome.* But this use of custome is expressed both in the Civil and Canon law. *In ambiguitatibus quæ ex legibus proficiscuntur, consuetudinem aut rerum perpetuò similiter judicatarum authoritatem vim legis obtinere debere.* Custome and precedents of law are as good as law in all questions of law and of doubtfull interpretation: and therefore the Presidents of Provinces were commanded to judge by the measures of custome: *probatis iis quæ in oppido frequenter in eodem controversiarum genere servata sunt, causâ cognitâ statuat*; see what is the custome of the place, and by the measures of that let the decree passe. And so it is in the Canon law, where a certain Bishop is commanded to inquire what is the custome of the Metropolitan Church and the Churches in the neighbourhood, *& diligentius imitari, to follow it diligently*, meaning both in practice and in sentences. Now in this, if the Conscience can be relieved and the rigor of the law abated by the aides of custome, it is safe to use it, and to proceed according to the rules of equity, describ'd in the beginning of this Chapter.

l. si de interpret. ff. de legibus.

Vide Burgos de Paz. in l. 1. Tauri, num. 247.

l. nam Imperator. ff. eod.

l. 1. C. quæ sit longa consuet.

cap. super eo. de cognat. spirit.

4. But all this is therefore reasonable because it is *consuetudo secundum legem*, it is according to law; all the ease and abatements of which that are reasonable the Conscience may safely use. But if a custome be against a law, the law, and not the custome ought to prevail; for a custome cannot take off

off from us the duty and obedience we owe to the juſt laws of our ſuperiors. *Conſuetudo nec rationem vincit nec legem.* As in Divine laws reaſon and truth can never be prejudic'd by contrary cuſtomes; ſo in humane laws, the authority and obligation cannot be annull'd by deſuetude alone. For although a man may get impunity and ſave his skin whole under the protection of contrary cuſtome; yet our inquiry is for the indemnity of Conſcience: and as to this, it is conſiderable that when a cuſtome contrary to law does enter, it enters by neglect or diſobedience, by rebellion or contempt, it proceeds all the way in the paths of iniquity; for ſtill men goe *quà itur, non quà eundum eſt*, they goe, like frighted or wandring ſheep, there where the gap is open, not where the way lies: and it will be impoſſible that ſuch cuſtomes ſhould be a warranty to the conſcience, and that it ſhould be lawfull to break a law, becauſe the law is broken; that diſobedience ſhould warrant rebellion *; and that it be innocent to follow the multitude to ſin. So that ſo long as the cuſtome is alone and walks by it ſelf, it walks amiſſe: but if by any means this cuſtome paſs into lawfull, as a traveller that goes ſo far weſtward and ſtill goes on till at laſt he comes to the riſing of the ſun, then it is not by any force of the cuſtome, but by firſt obtaining pardon and then procuring leave.

l. 2. C. quæ ſit long. conſuet.

*Non poſſe præſcribi contra obedientiam. cap. cum non liceat. de præſcript.

5. For it is obſervable that in law, cuſtomes themſelves are eſteem'd illegal and reprobate if they be againſt law. *Licet uſus conſuetudinis non minima ſit authoritas, nunquam tamen veritati aut legi præjudicat*; Uſe and cuſtome hath great authority, but nothing againſt truth or law: and *Non valet conſuetudo contra canonicam inſtitutionem*; for the cuſtome is unreaſonable if it be againſt law: for *illam dico rationabilem quam non improbant jura*, ſaith the Gloſſe *in cap. ult. de conſuet. verbo rationabilis*; and the *Lateran* Council defines thoſe cuſtomes to be reaſonable, *quæ ratione juvantur & ſacris congruunt inſtitutis*, *which are aſſiſted by reaſon and are agreeable to the holy Canons.* Now becauſe a cuſtome is by no law admitted unleſſe it be reaſonable, and that by all laws thoſe cuſtomes are judg'd unreaſonable which are againſt law; we have reaſon to withdraw our ſelves from the practice of ſuch cuſtomes though they be never ſo general and long, unleſſe they be by ſome other means allowed.

cap. cum cauſa. de re judicata.

gloſ. in cap. ad noſtram. de conſuet. verb. canonicis.

6. And therefore there is wholly a miſtake in this doctrine, upon the account of an ἐναντιοφάνεια and ſome antinomies in law: for it is certain that in the Civil law, and in the laws of many nations anciently, the cuſtome of the people was eſteem'd ſufficient to abrogate a law; but it began firſt, and continued long onely in thoſe Common-wealths where the people had power to make a law, or had ſome pretenſions and colours of that power which were not wholly to be taken from them: and therefore, *Rectiſſimè receptum eſt ut leges non ſolum ſuffragio legiſlatoris, ſed etiam tacito conſenſu omnium per deſuetudinem abrogentur*, *Laws are abrogated not onely by the expreſſe revocation of the law-giver, but by the ſecret conſent of all.* And the reaſon of this is well expreſs'd by *Julianus* the Lawyer, *Quid intereſt ſuffragio populus voluntatem ſuam declaret, an rebus ipſis & factis? It is all one how the people ſignify their will, by ſuffrages or by actions:* meaning that ſo long as the legiſlative power was in them, they had power to revoke their own law by cuſtome as well as by voice, at long running as well as at one convention. But when the people are not their own ſubjects and their own Princes (for ſo they are in all popular governments) but that the Prince

l. de quibus. ff. de legib.

ibid.

or

or the Senate hath the legiſlative power, they cannot introduce a cuſtome but by rebellion and diſobedience. In Democracies, when the people did otherwiſe then their own laws requir'd, they diſobeyed themſelves, and ſo were innocent and out of danger; but now they cannot diſobey but they ſin, and a ſin can never of it ſelf lead a man to innocence, nor a lie to truth, unleſſe it be by the help of ſome other intervening cauſe, of it ſelf alone it cannot. But this affair relies upon the ſame ground which I formerly diſ-
Chap. 1. Rule 7. cours'd of in this book; for the miſtake of men is alike in both. The obligation of a law does not depend upon the acceptation of the people; and as a law hath not it's beginning ſo neither can it have it's perpetuity dependantly upon them; and no man thinks it hath, but he who ſuppoſes the ſupreme power to be originally in the people, and in the King by truſt; and there are too many that think that, for there have been ſo many Democratical governments that many wiſe men have ſaid ſo, becauſe then they had reaſon: but ſo many popular governments have alſo produc'd popular opinions, which being too much receiv'd even by wiſe men, have ſtill given the people occaſion to talk ſo ſtill, and to very many to believe them.

7. But if a contrary cuſtome could juſtly abrogate a law, then it were no matter who had the legiſlative power, for whatever the Prince pleaſe, the people ſhall chuſe whether it be a law or no; which becauſe it is a perfect deſtruction to all government, muſt needs proceed from an intolerable principle. To which I adde this conſideration, that whatever effect in law and external regiment a cuſtome may be admitted to have, of which I am not concern'd to give accounts, yet if the cuſtome be againſt law, it is certain the conſcience can have no ſafety, and no peace but in the obedience to the law. For beſides that there are ſo many difficult and indeterminable queſtions in the conduct of the matter of cuſtomes, as whether the cuſtome be reaſonable, and who is to judge of that, and by what meaſures; what are the ſufficient cauſes of cuſtome, whether there muſt be ſome inequality or preſſure or iniquity in the matter, or is it ſufficient that the multitude is willing to introduce a cuſtome againſt law? what time and continuance is requir'd to preſcribe a cuſtome, and when it begins to be innocent, and how long it is diſobedience; how many muſt concurre to the making of it, and whether the diſſent of a few does interrupt it's coalition and growing into a cuſtome, and how ſhall we know whether all or no doe conſent? or how are we ſure that a greater part is ſufficient, and that we have the greater part with us? whether for the abrogation of the law a mere deſuetude or omiſſion is ſufficient, or muſt the cuſtome be contrary to the law and matter of fact? and if that be ſufficient to annul an affirmative precept, how many things and circumſtances ōf things will be further requir'd for the removing the obligation of a negative commandement? and very many more to the ſame purpoſes, that is, to no purpoſes: beſides this, I ſay, the conſcience can never be warranted in any thing but obedience, becauſe it is impoſſible to tell the preciſe time in which the law is actually abrogated by the cuſtome; and therefore a man can never know by all that is before him in this affair, whether he be worthy of love or hatred.

8. There is onely one caſe that can ſet this right, and give warranty to the conſcience, and that is when the Prince or the ſupreme power allows the cuſtome and annuls his own law; for he onely that made it can give it a period: and therefore our inquirie can be onely this, how we ſhall know when the

the Prince is willing the law ſhall goe for nothing. Concerning which there are but two ways of our knowing it, or his doing it. The one is by tacit conſent or ſecret approbation of the cuſtome, as by not puniſhing, by not complaining, and by ſilence; and the other is by direct revocation. The former will be very hard to know ſo well as to be able to bring peace to an inquiring and curious conſcience; but I ſhall give accounts of the beſt ways of knowing it in the next book, in the explication of this Rule, *Qui tacet conſentire videtur*: of the latter I am to ſpeak in the next Rule. In the mean time there is nothing ſure for the conſcience but to obey the laws, onely that we can underſtand that the cuſtome is then approved when it paſſes *in rem judicatam*, when the Kings Judges have given ſentence in a cauſe againſt an old law, for a later cuſtome; which when they have reaſon to doe, the Princes will is ſufficiently declared; till then, if we cannot ſufficiently know that the Prince does ſecretly approve the cuſtome againſt the law, we muſt ſtay till the law be expreſſely abrogated, and then the cuſtome may ſafely be complied with, becauſe then we are ſure it is not againſt law. For, as *Panormitan* ſaid well, *Oportet ut duæ partes ſint ſcientes conſuetudinis quæ introducitur*. Not onely the people, but the Prince too muſt conſent before the cuſtome be approved. For there muſt be two words to this bargain.

§. 7. *Abrogation.*

RULE VII.

Abrogation of a law by a competent, that is, by the Supreme power, may be juſt and reaſonable, though the law it ſelf be neither unreaſonable nor unjuſt.

1. THE cauſes of abrogating a law are all thoſe which are ſufficient to make a good and a wiſe man change his mind. The alteration of the cauſe of the law, new emergencies, unfit circumſtances, public diſlike, a greater good: for it is no otherwiſe in the public then in the private will; there where a man is maſter of his will and ruler of his own affairs, there is nothing to be conſider'd, but that what he does be done wiſely and juſtly and charitably. The ſame power that makes the law, the ſame can annul it, and the ſame reaſon which introduc'd the law, can alſo change it: and there is no difference but this onely, that a law may not be impoſed unleſſe the matter of it be honeſt, or holy, or profitable; but it may be abrogated though it be all this, provided it be not neceſſary. For to the making of a law all the conditions are requir'd, a competent authority, and juſt matter, and fitting promulgation; but to the abrogation of it, the defect of any one cauſe is ſufficient. And therefore if the law be *unjuſt*, it ceaſes of it ſelf; if it be *uſeleſſe*, it falls into juſt neglect; if it be *not publiſh'd*, it is not born; if it be *generally diſlik'd*, it is ſuppos'd to be uncharitable, and therefore is as good as if it were not born, for it will be ſtarv'd at Nurſe. But when it is made it muſt continue and be maintain'd by all theſe things together;

gether; and therefore when any one fails, the whole ſtructure deſcends into diſſolution and a heap. But therefore if the will of the Prince changes, and that he will not have it to be a law, it looſes the ſpirit, though the body and the external cauſes of life remain. For though an action muſt not be done unleſſe it be good and innocent, yet it is not neceſſary that it be done, though it be ſo. Every thing that is good is not neceſſary, and many good things are let alone, and at the ſame time others as good as they are done, and ſometimes better: and becauſe there are many good proviſions and counſels which are not taken, and are not made into laws, many ſuch things which are well enough may be laid aſide, either for the procuring a greater good, or for the avoiding of ſome appendant inconvenience. But in theſe caſes, unleſſe the Prince be obliged by oath or promiſe to preſerve this law, his abrogating even of a good law is no queſtion of juſtice, but of prudence and charity, both which alſo may be preſerved, if the good be chang'd, or improv'd, or recompens'd. But whether it be right or wrong on the Princes part, yet if the law be annull'd, the conſcience of the ſubject is no longer bound. The Prince cannot bind the conſcience, unleſſe the law be good; but the conſcience is at liberty, though the abrogation be not good. Becauſe the goodneſſe of the matter cannot make it into a law without the Prince's will, but the Prince's will can alone make it ceaſe to be.

2. Upon this account, it is not unſeaſonable to inquire whether, that a thing hath been abus'd may be accounted a juſt and a prudent cauſe to take it quite away.

3. That it may be a juſt, that is, a ſufficient cauſe, is out of all queſtion, becauſe it is not unjuſt; for then in this caſe it is juſt enough, though it be not neceſſary. But whether it be prudent for the Prince to doe it, and whether it be neceſſary that it be done, is another conſideration. But to this the precedent of *Hezekiah* King of *Judah* is a good guide. For he brake in pieces the brazen ſerpent, becauſe the people made it an idol; and he did prudently, becauſe the people who were too apt to that crime could not eaſily be kept from doing it ſo long as that great memorial of the divine power did remain. It is like removing a beautifull woman from the greedy eyes of a yong perſon; he cannot behold her and be ſafe: and thus it is in all caſes, if the evil be incumbent, and not remediable, nor to be cleans'd from miſchief or juſt ſuſpicion and actual danger, then whatſoever is ſo abus'd not onely may, but ought to be remov'd. But if that which was abus'd be now quitted from the abuſe, then it may be kept, if it be good for any thing: and if it were not, I ſuppoſe there would be no queſtion about it.

4. But in the change of laws, or reformation of prevailing evil cuſtomes, *prudence is good always*, and *zeal ſometimes*: but certainly the contrary and the exterminating way of reformation is not always the beſt, becauſe he that oppoſes a vice too fiercely may paſſe into a contrary vice as readily as into a contrary vertue. If a Church happens to command ſome rituals and formes of worſhip in a ſuperſtitious manner or to ſuperſtitious purpoſes, or if men doe obſerve them with a curioſity great as to the niceneſſe of ſuperſtition, it is not good to oppoſe them ſuperſtitiouſly. If the obedient doe keep the rituals as if they were the Commandements of God, they are to blame: but if the diſobedient will reject them as if they were of themſelves

ſelves againſt God's Commandements they are more to blame, becauſe a ſuperſtitious obedience is better then a ſuperſtitious rebellion; *that* hath piety and error in an evil mixture, but *this* hath error and impiety.

5. But as to the ſubject matter and inquiry of the Rule; That a thing hath been abus'd, and a law hath been made the occaſion of evil, it does not make the law of it ſelf to ceaſe, unleſſe that abuſe and deception be not to be cur'd without abrogation of the law. So that if a ſubject ſees the abuſe and is offended at it, and is not tempted to comply with it, he is ſtill tied to obſerve the law, and in his own practice ſeparate it from the abuſe. Thus in the Primitive Church, the obſervation of Vigils and Wakes was a holy cuſtome, and yet it afterwards grew into ſuch abuſe, that the Eccleſiaſtic authority thought it fit to abrogate it; becauſe the cuſtome in the declining piety and corrupted manners of the world was a ready temptation to the evil. But till the Vigils were taken away by authority, the laws of the Church did ſtill oblige, and did not ceaſe of themſelves: and therefore where with innocence and without active ſcandal they could be obſerved, the ſubject was oblig'd. But then this was cauſe enough why the Rulers of Churches ſhould annul that law or cuſtome. If they could eaſily have quitted thoſe meetings from corruption, they might if they pleas'd retain them or annul them, as they liſted; onely they were bound to annul them when the evil could find no other remedy. The abuſe even ſo long as it was curable was yet cauſe enough why the Supreme power *might* abrogate the law, but not ſufficient to make the abrogation neceſſary, nor yet for the ſubject to diſobey it. For the inferior cannot lawfully withdraw his obedience, till the ſuperior cannot lawfully retain the law: but when to abrogate it is neceſſary, then to diſobey it is no ſin.

6. I conclude theſe numerous inquiries and large accounts of the obligation of Conſcience by Humane laws, with the Apologue taken out of *Nicolaus Damaſcenus* his Politics. Ἱβήεων αἱ γυναῖκες ἔχουσι μέτρον τι τῆ ζώνης, ἢ τῷ γαστέρα περιλαβεῖν ἂν μὴ δυνηθῶσιν αἰσχρὸν ἡγοῦνται. Laws are like the girdles of the *Iberian* women: if any mans belly or his heart is too big for thoſe circles, he is a diſſolute and a diſhonour'd perſon.

The end of the Third Book.

Non nobis Domine.

OF

THE NATURE AND CAUSES

OF

Good and Evil,

THEIR

Limits & Circumſtances,

THEIR

AGGRAVATIONS & DIMINUTIONS.

The Fourth Book.

LONDON,

Printed by *James Fleſher*, for *Richard Royſton* at the Angel in *Ivy-lane*. 1660.

The Fourth Book.

HE that intends to conſider any thing fully and intirely, muſt conſider it in all the four kinds of cauſes. The *Formal cauſe*, or the eſſentiality of good and evil is *the doing it with or againſt Conſcience*, true or falſe, right or wrong, confident or doubtfull, probable or certain; and this I have explicated in the Firſt book. The *Material cauſe* of good and evil is derived from the object or the Rule, which is the laws of God and Man, by a conformity to which the action is good; and if it diſagrees, it is materially evil. And this I have largely repreſented in the Second and Third Books.

But becauſe it is not enough that any thing be in its own nature honeſt and juſt, unleſſe it be alſo honeſtly and juſtly done, according to that ſaying of the wiſe man, *Qui ſanctitatem ſanctè cuſtodiunt judicabuntur ſancti, They that keep holineſſe holily ſhall be adjudged holy*; to make up the Rule of Conſcience complete, it is neceſſary that it be conſidered by what Rules and meaſures a good action may be rightly conducted, and how all may be rightly judged, that we paſſe on to emendation, either by repentance or improvement, that a good action may not be ſpoil'd, and an evil may not be allowed, but that according to the words of the Apoſtle we may be εἰς πᾶν ἔργον ἀγαθὸν ἡτοιμασμένοι *prepar'd for every good work*: which will be done by conſidering *the efficient* and *the final cauſes* of all humane actions; the nature and rules of which when we underſtand and conſider, as we have the meaſure of humane actions in all the four kinds of cauſes, ſo there will be nothing deficient to the fulneſſe of a general or univerſal Rule of Conſcience.

CHAP. I.

Of the efficient cauſes of all Humane actions good or evil.

§. 1. *Of Choice and Election, voluntary and involuntary.*

RULE I.

An action is neither good nor evil, unleſſe it be voluntary, and choſen.

1. THis Rule is taken from the doctrine of S. *Auſtin*, who makes freedome and election to be of the conſtitution and definition of ſin. *Peccatum eſt voluntas retinendi vel conſequendi quod juſtitia vetat, & unde liberum eſt abſtinere.* The will is the miſtreſſe of all our actions, of all but ſuch as are ne- habetur 15. qu. 1. in princip. lib. De duabus animabus cap. 11.

ceſſary and natural; and therefore to her it is to be imputed whatſoever is done. The action it ſelf is good or bad by it's conformity to, or difformity from the Rule of Conſcience; but the Man is good or bad by the will.

ibid. ubi ſuprá. cap. non eſt. *Nemo noſtrûm tenetur ad culpam, niſi propriâ voluntate deflexerit*, ſaid S. *Ambroſe*. If the actions be natural and under no command of the will, they are good by creation and the act of God; but if it be a moral action it is to be conducted by another Oeconomy. For in theſe it is true which the Wiſe man ſaid, *Deus poſuit hominem in manu conſilii ſui*: God intending to be glorified by our free obedience hath ſet before us good and evil: we may put our hand to which we will; onely what we chuſe that ſhall be our portion: for all things of this nature he hath left us to our ſelves; not to our natural ſtrengths, but *to our one choice*; he hath inſtructed us how to chuſe; he hath open'd to us not onely the nature of things, but the event alſo of all actions, and invited the will with excellent amabilities and glorious objects; and by all the aides of the Spirit of Grace hath enabled it to doe it's own work well. Juſt as Nature is by Phyſic enabled to proceed in her own work of nutriment and increaſe by a removing of all impediments, ſo does the Spirit of God in us, and to us, and for us: and after all the will is to chuſe by it's own concreated power.

2. I ſhall not here enter into the philoſophy of this queſtion, but conſider it onely as it is to be felt and handled. Let the will of man be enabled by what means it pleaſe God to chuſe for it, without God's grace we are ſure it cannot doe it's work; but we are ſure alſo that we can doe our work that God requires of us, and we can let it alone: and therefore as ſure as God's grace and help is neceſſary, ſo ſure it is that we have that help that is neceſſary; for if we had not, we could not be commanded to work, and there were no need of arguments or of reaſon, of deliberation or inquiry,

lib. de fide contra Manichæos cap. 10. according to the words of S. *Auſtin*, *Quis non clamet ſtultum eſſe præcepta dare ei, cui liberum non eſt quod præcipitur facere; & iniquum eſſe eum damnare, cui non fuit poteſtas juſſa complere?* For if in humane actions, that is actions *of morality*, there be a fate, then there is no contingency, and then all deliberation were the greateſt folly in the world; becauſe ſince onely one part is poſſible (that being impoſſible to come to paſſe which God hath inevitably decreed ſhall never be) the other part is but a chimæra, and therefore not ſubject to conſultation. Adde to this, if all our actions were predetermin'd, then one man were not better then another, and there could be no difference of rewards in heaven or earth; God might *give* what he pleaſe, but he ſhall *reward none*, not in any ſenſe whatſoever; & Chriſtian Princes may as well hang a true man as a thief, becauſe this man no more breaks his law then the other, for neither of them doe obey or diſobey, but it is fortune that is hang'd, and fortune that is advanc'd:

Ille crucem [*ſortis*] *pretium tulit, hic diadema*;

and there is no ſuch thing as vertue, no praiſe, and no law. But in all this there is nothing new. For theſe were long ſince the diſcourſes of S. *Auſtin* againſt the *Manichees*, and S. *Hierom* againſt the *Pelagians*; and S. *Leo* by theſe very Mediums confutes the *Priſcillianiſts*, as appears in his 19th Epiſtle to *Turibius* the Biſhop. But certainly that is a ſtrange propoſition which affirms that nothing is poſſible but what is done; and to what purpoſe is repentance? No man repents that he could not ſpeak as ſoon as he was born, and no man repents that he was begotten into the world by the ordinary way

way of all the earth. He that repents is troubled for doing what he ought not, and what he need not. But I will goe on no further in this particular; not becauſe I cannot chuſe, for I could adde very many more things, but becauſe if a man hath not a power to will or nill, it is to no purpoſe to write caſes of Conſcience, or indeed to doe any thing as wiſe men ſhould. A fool and a wiſe man differ not, a lazy man and a diligent, a good man and a bad, ſave onely one hath a better ſtarre; they differ as a ſtrong man and a weak: but though one be the better thing, he is not the better man. But I am not here to diſpute, yet I ſhall obſerve a few things which may be uſefull to the queſtion as the queſtion can miniſter to practice.

3. 1. That whereas all men granting liberty of will in actions of natural life and common entercourſe, many of them deny it in moral actions, and many more deny it in actions ſpiritual, they conſider not that they evacuate and deſtroy the very nature and purpoſe of liberty and choice. For beſides that the caſe of *moral* actions and *ſpiritual* is all one, for that action is *moral* which is done in obedience or diſobedience to a law, and *ſpiritual* is no more, ſave onely it relates to another law, to the Evangelical or Spiritual *law of liberty*, but in the nature of the thing it is the ſame, and can as well be choſen one as the other, when they are equally taught, and alike commanded, and propounded under the ſame proportionable amability, and till they be ſo they are not equally laws; beſides this, the denying liberty in all moral things, that is in all things of manners, in all things of obedience to the laws of God and Man, and the allowing it in things under no law, is a deſtruction of the very nature and purpoſe of liberty. For the onely end of liberty is to make us capable of laws, of vertue and reward, and to diſtinguiſh us from beaſts by a diſtinct manner of approach to God, and a way of conformity to him proper to us; and except in the matter of Divine and humane laws, except in the matter of vertue and vice, except in order to reward or puniſhment, liberty and choice were good for nothing: for to keep our ſelves from harm, and poiſon, and enemies, a natural inſtinct, and lower appetites, and more brutiſh faculties would ſerve our needs as well as the needs of birds and beaſts. And therefore to allow it where it is good for nothing, and to deny it where onely it can be uſefull and reaſonable and fit to be done, and given by the wiſe Father of all his creatures, muſt needs be amiſſe.

4. 2. Liberty of choice in moral actions, that is, in all that can be good or bad, is agreeable to the whole method and purpoſe, the Oeconomy and deſigne of humane nature and being. For we are a creature between Angel and beaſt, and we underſtand ſomething, and are ignorant of much, and the things that are before us are mixt of good and evil, and our duty hath much good and ſome evil, and ſin hath ſome good and much evil, and therefore theſe things are and they are not to be purſued; *Omne voluntarium eſt etiam involuntarium*, and there is a weight on both ſides, and our propoſitions are probable, not true and falſe, but for ſeveral reaſons ſeeming both to ſeveral perſons. Now if to all this there were not a faculty that ſhould proportionably, and in even meaſures, and by a ſymbolical progreſſion tend to theſe things, we could not underſtand, we could not ſee, we could not admire the numbers and muſic and proportions of the Divine wiſedome in our creation in relation to this order of things. For ſince in our objects there is good and evil in confuſion or imperfect mixture, if our

faculties tending to theſe objects were natural, and not deliberative & elective, they muſt take all in, or thruſt all out, and either they muſt receive no good, or admit every evil. It is natural for every thing to love it's good and to avoid it's evil: now when the good and evil are ſimple and unmixt or not diſcerned, an inſtinct and a natural tendency to the object is ſufficient to inveſt it in the poſſeſſion. But when they are mixt, and we are commanded to chuſe the good and eſchew the evil, if to an indifferent object there be not an indifferent faculty, what Symmetry and proportion is in this creation? If there be two amabilities propounded, and onely one is to be followed, and the other avoided, ſince the hand hath five, the ſoul muſt at leaſt have two fingers, the one to take, the other to put away. And this is ſo in all ſpecies or kinds of *moral* actions, even that kind which we call *ſpiritual*; for with that alſo there is mingled ſo much difficulty and diſpleaſure, that is, ſo much evil, ſo much that we naturally and reaſonably deſire to avoid, and the avoiding of this evil does ſo ſtand againſt the chuſing of the other good, that a natural and unchuſing faculty can doe nothing at all in the queſtion. But upon this account God hath commanded induſtry, diligence, toleration, patience, longanimity, mortification; that is, he hath ſet before us ſeveral eligibilities in order to ſeveral ends, which muſt either be wholly to no purpoſe, or an art of vexation and inſtrument of torment to evil purpoſe, or elſe the means of a reward, and the way of felicity by the advantage of a free and a wiſe choice, and this is to very good purpoſe.

Ovid. Triſt. lib. 4. El. 3.

Materiamque tuis triſtem virtutibus imple:
Ardua per præceps gloria vadit iter.
Hectora quis noſſet, ſi felix Troja fuiſſet?
Publica virtutis per mala facta via eſt.

It is difficulty and the mixture of ſeveral amabilities that preſuppoſes choice and makes vertue. But if events and actions were equally predetermin'd, idleneſſe would be as good as labour, and peeviſhneſſe as good as patience; but then a man could never come to God. It was well ſaid of *Euſebius*, Σῶμα ἀργὴν πίκει, ψυχὴν ὃ ἀμελέτησις· ἀσκήσεως τὸν αὐτὸν ἀείρασης πρὸς τὸ θεοδίδακτον. As idleneſſe is to the body, ſo is careleſneſſe and inconſideration to the ſoul, but exerciſe and difficulty and mortification bring us unto God: but theſe things cannot be underſtood but where there is liberty and election, and yet without theſe there is no vertue.

Sil. Ital. l. 9.

——*Nam virtus futile Nomen*
Ni decus adfuerit patiendo, ubi tempora lethi
Proxima ſint, pulchramque petat per vulnera laudem.

Difficulty makes vertue, and the contrariety of objects makes difficulty, and the various ends and amabilities make the contrariety, and liberty is the hand and fingers of the ſoul by which ſhe picks and chuſes, and if ſhe gathers flowers ſhe makes her ſelf a garland of immortality.

5. 3. All this ſtate of things thus repreſented muſt needs ſignify a ſtate much more perfect then that of beaſts, but very imperfect in reſpect of that of Angels, and of that which we our ſelves expect hereafter; and therefore that liberty which is made in juſt proportion to fit this imperfection muſt alſo of it ſelf needs be imperfect, and need not be envied to mankind as if it were a jewel of the celeſtial crown. Alas it is an imperfection,

fection, fit to humble us, not to make us proud; it is not too much to be given us, it is a portion of our imperfect condition; it onely ſets us higher then a Tulip, and enlarges our border beyond the folds of ſheep or the Oxens ſtall, but it keeps us in our juſt ſtation, ſervants to God, inferior to Angels, and in poſſibility of becoming Saints. For in moral or ſpiritual things *liberty* and *indetermination* is *weakneſſe*, and ſuppoſes a great infirmity of our reaſon and a great want of love. For if we underſtood all the degrees of amability in the ſervice of God, and if we could love God as he deſerves, we could not deliberate concerning his ſervice, and we could not poſſibly *chuſe* or be in love with diſobedience, we ſhould have no liberty left, nothing concerning which we could deliberate; for there is no deliberation but when ſomething is to be refus'd, and ſomething is to be preferr'd, which could not be but that we underſtand good but little, and love it leſſe. For the Saints and Angels in heaven and God himſelf love good and cannot chuſe evil, becauſe to doe ſo were imperfection and infelicity; and the Devils and accurſed ſouls hate all good, without liberty and indifferency: but between theſe is the ſtate of Man in the days of his pilgrimage, untill he comes to a confirmation in one of the oppoſite termes. Liberty of will is like the motion of a Magnetic needle toward the North, full of trembling and uncertainty till it be fixt in the beloved point: It wavers as long as it is free, and is at reſt when it can chuſe no more. It is humility and truth to allow to man this liberty; and therefore for this we may lay our faces in the duſt, and confeſſe that our dignity and excellence ſuppoſes miſery and is imperfection, but the inſtrument and capacity of all duty and all vertue.

6. 4. In the inquiries concerning the efficient cauſe of moral actions men doe deny one truth for fear of looſing another, and will not allow to man a liberty of choice in ſpiritual actions and moral effects, for fear of diſparaging the grace of God; whereas it is by the grace of God that we have this liberty. *Ipſa ratio quemlibet noſtrum quærentem vehementer anguſtat, ne ſic defendamus gratiam ut liberum arbitrium auferre videamur: rurſus nec liberum ſic aſſeramus arbitrium, ut ſuperbâ impietate ingrati Dei gratiæ judicemur.* It is very eaſy to reconcile God's grace with our liberty, becauſe by this grace it is that we have this liberty. For no man can chuſe what he does not know, and no man can love that which hath in it no amability. Now becauſe we have all notices ſpiritual and the arguments of invitation to obedience in duties Evangelical from revelation and the grace of God, therefore to this we owe the liberty of our will, that is, a power to chuſe ſpiritual things. *Grace and truth come by Jeſus Chriſt*, and liberty of will comes from him; for *if the Son makes us free, then are we free indeed:* but this is not by giving us new faculties, but new ſtrengths and new inſtruments to theſe faculties we have already. But let it be this way or any other, we cannot work till we have powers to work, and we cannot chuſe till we have liberty, and we cannot be under a law, and promiſes and threatnings, if we cannot chuſe: and therefore it matters not as to our preſent inquiry, the explication and manner of ſpeaking of which ſchool of learning we or any man ſhall pleaſe to follow: this onely we are to rely upon, that the man cannot be a good man, if he doe not chuſe the good and decline the evil; and there is no ſuch thing as

S. Auguſtinus lib. 2. de peccator. merit. cap. 18. Vide etiam Proſper. lib. 1. de vocat. gentium cap. 8. & ad capitula Gallorum, Sent. 6. & contra Collatorem, cap. 11. & carmen de ingratis capp. 26, 28. & ult. Vide etiam & Fulgent. lib. de incarnat. & gratiâ Chriſti, cap. 20. Gregorii lib. 18. moral. cap. 21. & lib. 33. cap. 25. & V. Bedam in Gen. 4. ſuper verbis Domini ad Cain. Sed ſuper omnes videtur S. Bernardi liber de gratia & libero arbitrio: vide eundem ſerm. 81. in Cantica.

Conſcience,

Conſcience, and there is no need of it, and no uſe (except it be merely to torment us,) unleſſe it be to guide us into the choice of good, and to deterre us from doing evil.

7. But laſtly, It will yet be ſufficient to the verification of this Rule, that whether we affirm or deny the *liberty of the will*, yet that there be in every action good or bad *the action of the will*; and if that be not neceſſary to be admitted as the cauſe of morality, then he that kills a man againſt his will is as bad as he that did it with his will, and he that receives the holy Sacrament by conſtraint does as well as he that chuſes it, and to confeſſe Chriſt againſt our Conſcience is as good as if we confeſſe him according to it: for when the material actions are the ſame, there is nothing can diſtinguiſh the men that doe them, but ſomething within that can doe this, or let it alone. Now becauſe a good underſtanding, and a good fancy, and a great reaſon, and a great reſolution, and a ſtrong heart, and a healthfull body may be in a reprobate or vitious perſon, but a good will and the choice of vertue is onely in a good man, it follows that all morality depends on the action of the will; and therefore that all other faculties are natural and neceſſary and obedient, this onely is the Empreſſe, and is free, and Miſtreſſe of the action.

8. And yet beyond this heap of things, there is another reaſon why a man can be good or bad onely by the act of his will, and not of any other faculty, becauſe the act of the will produces material and permanent events; it is *acquiſitive* and *effective*, or *recuſative* and *deſtructive*, otherwiſe then it is in any other faculties. For the other faculties are like the eye and ear, they can ſee or hear foul things and be never the worſe, and good things and be never the better: but the will of a man is like the hand and the mouth and the belly, if they touch foul things they are defiled, and if they eat poiſon they die; ſo is the will of man, it becomes all one with it's object. For it works onely by love or hatred, and therefore changes by the variety of the object it entertains. He that loves a lie is a liar; but he that onely underſtands it, is never the worſe. *Facti ſunt abominabiles ſicut ea quæ dilexerunt*, ſaith the Prophet, *They are made abominable according as they loved*; [*as the things are which they loved*] ſo the Vulgar Latin: and ſo it is in good things, ὁ κολλώμενος τῷ Κυρίῳ ἓν πνεῦμά ἐστι, *He that is joyn'd to the Lord is one ſpirit*: love makes the faculty like to the object, and therefore as the object of the will is, whoſe action is love, ſo is the man good or bad accordingly.

Hoſe. 9. 10.

1 Cor. 6. 17.

9. Now this is not ſo to be underſtood as if the actions of other faculties could not be ſins; for a ſin may be in the memory, in the fancy, in the underſtanding, in the eye, and in the members of the body: but then in theſe is onely the material part of the ſin; if the actions ſubjected in them be involuntary they are not criminal, they may be *irregular*, but not *ſinfull*; onely as the will commands them and they obey, ſo they are to ſtand or fall in judgment. For ſo ignorance is a ſin when it is voluntary. *Qui dixerunt Deo, Recede à nobis; ſcientiam viarum tuarum nolumus.* The wicked ſay unto God, We will not underſtand thy ways. So the *Pſalmiſt* complains, *Noluit intelligere ut bene ageret*, *He refuſed underſtanding*. Now ſince in all the faculties the will of man hath a dominion, and is the cauſe of all moral actions, from thence they have their eſtimate, and are acquitted or condemned

Job 21.

Pſal. 35.

condemned accordingly; according to that of S. *Bernard*, *Nihil ardet in inferno niſi propria voluntas*, Nothing makes fuel for the flames of hell, but the will of man, and evil actions that are voluntary and choſen.

10. The conſequent of this diſcourſe in order to Conſcience is, that no man looſe his peace concerning the controverted articles and diſputes of Chriſtendome. If he inquires after truth earneſtly as after things of great concernment; if he prays to God to aſſiſt, and uſes thoſe means which are in his hand and are his beſt for the finding it; if he be indifferent to any propoſition, and loves it not for any conſideration but becauſe he thinks it true; if he will quit any intereſt rather then looſe a truth; if he dares own what he hath found and believ'd; and if he loves it ſo much the more by how much he believes it more conducing to piety and the honour of God, he hath done what a good and a wiſe man ſhould doe; he needs not regard what any man threatens, nor fear God's anger when a man of another ſect threatens him with damnation: for he that heartily endeavours to pleaſe God, and ſearches what his will is that he may obey it, certainly loves God; and nothing that loves God can periſh.

11. 2. It follows alſo from hence that no unavoidable calamity, no being born of evil parents, no being born from illegitimate embraces, no unjuſt ſentences of men can irreconcile us to God, or prejudice our Eternal intereſt. God will judge us according to *our* works, not according to *his*, or any mans elſe, or by any meaſures but by his own law and our obedience.

12. 3. Let no man think that either God will, or that the Devil can make us ſin. God loves not ſin, or that we ſhould die; and therefore will not divide his own kingdome, or ſet up that by his *effective power* which by his *legiſlative* and his *perſuaſive*, and his *natural* and *eternal*, he intends to deſtroy. And as for the Devil, he can tempt indeed, but unleſſe we pleaſe, he cannot prevail; it is our conſent and willingneſſe that makes him conqueror. And if we be really perſuaded of theſe plain and evident truths, there is a plain way made to encourage our induſtry, to actuate our caution, to glorify God, to *work out our ſalvation with fear and trembling*, to *walk humbly with our God*, to deveſt our ſelves of all excuſes, to lay the burden where it ought; that is, to walk in the right way, in the way of duty and the paths of the Divine commandements, without tempting our ſelves, or being fool'd and coſen'd out of our duty, or hindring our repentance and humiliation, if we have done amiſſe.

13. Theſe are the material events, and that proper uſefulneſſe of this propoſition which can doe benefit to us in the conduct of Conſcience. Our own will and choice is all that upon which we are to make judgement of our actions. For the further declaration of which we are to inquire into divers particulars, in order to the inſtitution and regulating of Conſcience.

Queſtion

Queſtion I.

Whether every action of our life ought to be directed by a right conſcience, or a well-perſuaded will : or, *Are not ſome actions not onely in their whole kind, but in their circumſtances and limitations alſo, merely indifferent?*

14. To this I anſwer, that *actions, if they be conſidered in their Phyſical or natural capacity*, are all *negatively indifferent*; that is, neither good nor bad: the going into a houſe, the entring into a field, the ſtriking of a blow, the act of generation, eating or drinking, as they are taken in their natural capacity, are not moral actions, that is, by all that they are in nature are nothing at all in manners: even homicide it ſelf and adultery, in their natural capacity, differ nothing from juſtice and the permiſſions of marriage; and the giving of almes is no better *naturally* then giving money to *Mercury*, or to an Image.

15. 2. *Omiſſions of acts are oftentimes indifferent*, even always when the omiſſion is not of a thing commanded or morally good from ſome law, or ſufficient principle of morality, as perfection, counſel, praiſe and fame, worthineſſe and charity. The reaſon is, becauſe omiſſions may come in upon a dead ſtock, and proceed from a negative principle, from ſleep and forgetfulneſſe, from a lethargy or dulneſſe, from differing buſineſſe and divertiſements. And that which is nothing can produce nothing, and neither good nor evil can come from that which is not; they both muſt have a poſitive cauſe, if they have in them any morality. Even not to commit adultery is not commendable, unleſſe that omiſſion be choſen. * And this is very remarkable in order to Conſcience. For the whole duty of man conſiſts in eſchewing evil and doing good: but to will and to chuſe good is ſo neceſſary, and if we can, to doe it is ſo requir'd of us, that the very avoiding evil is exacted in that manner, that unleſſe it be a doing good, it is a doing nothing at all, it is good for nothing, it will goe for nothing. To eſchew evil is a labour and a mighty work, it is a running from temptation, a ſhutting the doors againſt it, a praying againſt it, it is a flying from it when we can, and a reſiſting of it when we cannot. A porter cannot be ſaid to eſchew ambition, nor does he doe well by not commencing of a proud warre, when he can think of nothing but how to fill his belly by breaking of his back; and the poor ſhepherd ſhall never be thank'd for not contending for the Arch-biſhopric of *Toledo*, or not fighting againſt his Prince, when nothing enters into his armory but his bottle and his hook, and nothing into his head, but that his ſheep may wander in wholeſome and pleaſant paſtures, and his lambs be free from dogs and foxes. A mere negative does nothing in God's ſervice. The avoiding evil is neither good nor bad, unleſſe it be by a poſitive act, unleſſe the will be in it: and indeed as things are order'd it is many times harder to decline evil then to doe good; and therefore the eſchewing evil is a contention and a warre, it is a heap of ſevere actions, a ſtate of mortification, it is a reſiſting of temptations. For he that was never tempted may be *innocent*; but he is not *vertuous*, and ſhall have no reward.

* This is to be underſtood to be true in all caſes; unleſſe his not acting a ſin, and his not being tempted now, be the effect of a long prayer, and a former

former contention; and that either the temptation by his preceding piety be turn'd aſide, or made impotent by mortification, or by his choſen and beloved ſtate of life be made impoſſible; that is, unleſſe by the arts of the ſpirit he hath made it vain, or by his frequent victories he hath made the Devil flee away, and ſo bought his peace at the price of a mighty warre, and his reſt at the charge of a pertinacious labour. In all theſe caſes the omiſſion is negative as to the preſent ſtate of things; and yet it is vertuous, becauſe it had a poſitive and a vertuous cauſe, which now it may be lies ſtill, becauſe it hath produc'd a permanent and perpetual effect.

16. And upon this account we alſo can hope for the reward even of thoſe graces which we never exerciſe. The Prince that refuſes the offer of a crown or the poſſibilities of Empire becauſe they doe not belong to him, ſhall certainly have a great reward, becauſe upon the nobleſt account he avoids a very great evil. But the poor herdſman that dwells upon his own acre, and feeds his little yokes and couples of ſheep on high ways and mountains, and looks not ambitiouſly on his neighbours farm, nor covets the next cottage, which yet he likes well, and thinks it excellent becauſe it hath a chimny, nor would doe an act of falſhood to get his own tenement rent-free, this man ſhall have a reward in proportion great as that juſt Prince who refuſes to oppreſſe his brother when his ſtate is broken by rebellion and diſadvantages. For there is no vertue but may be lov'd and courted, delighted in and commended in every ſtate and circumſtance of life: and though it be not exercis'd in noble temptations and trials proper to the moſt excellent and remarked perſons; yet the very images and little records of trial may expreſſe a love and choice which may be equal to that which is proſperous by the greateſt exerciſe and indication. For there are little envies & ambitions even in cottages, and therefore there may be the choice and volition of humility and peacefull thoughts and acts of charity: and there may be unchaſtity even in marriage; and therefore though the contention is eaſier, and the temptations but inconſiderable; yet they alſo when they are immur'd by their Sacramental defenſatives and ſecurities may delight in chaſtity, and therefore rejoyce in that ſtate becauſe it ſecures them from uncleaneneſſe; and therefore for this love, and act of choice, even for delighting in that ſafety, may find a reward of chaſtity: and there may be covetouſneſſe amongſt them that are full of plenty, and therefore even the richeſt perſon can be imployed in ſecuring the grace of contentedneſſe, though he have but little temptation to the contrary. * Indeed if a begger were tempted with the offer of 20000, the temptation would be too big for him, if he underſtood the ſumme; and poſſibly if he be a vertuous man, and would not be tempted to tell a lie for 20^{s}, or for one of his own poſſible and likely ſummes, yet for ſo vaſt a heap of gold bigger then his thoughts, he might be put beyond his vertue. But therefore God in his goodneſſe to mankind does ſeldome permit ſuch trials and unequal hazards, and to our not being ſo tempted (without diſparagement to our vertue and our choice) we may well confeſſe we owe our innocence. But becauſe God ſuffers our temptations to be by accidents happening in our own condition, and we are commonly tried by that which is before us, or next above us; every one can either exerciſe or chuſe the worthineſſe of every grace, and may hope for the reward of the whole vertue by reſiſting the moſt inconſiderable temptation to it's contrary, if in caſe he have no bigger, he equally chuſes the vertue and rejoyces in his innocence. And he that does reſiſt,

or by any means expedite himſelf from his own temptation, ſhall be rewarded equally to him, to whom the greateſt is but his next beſt. * For our vertue is not to be eſtimated by the inſtance, but the willingneſſe and the courage, the readineſſe of mind and alacrity of choice, by the proportion of the man and the methods of his labour, the reſolution of the will, and the preparation of the heart; and we muſt account our omiſſions or eſchewings of evil to be vertuous, by what we have done againſt it, by our prayer and our watchfulneſſe, our fear and caution, not by an unactive life, and a dull peace, and a negative omiſſion: for *he does not eſchew evil that does not doe evil, but he that will not doe it.*

17. 3. *All acts that paſſe without any conſent of the will are indifferent*; that is, they are natural, or unavoidable, or the productions of fancy, or ſome other unchuſing faculty, or they are the firſt motions of a paſſion, or the emotions of ſome exterior violence; as the ſudden motion of an eye, the head or heart, the hands or feet. Now that theſe are as indifferent as to grow, or to yawn, to cough or to ſneeze, appears becauſe they are of the ſame nature, and partake equally of the ſame reaſon. But theſe inſtances can be made to differ. For thoſe which are ſo natural that the whole effect alſo is natural, and cannot paſſe on to morality or be ſubject to a command, are always indifferent in their whole kind, and in all their degrees and in all their circumſtances. Thus to grow taller, to digeſt meat, to wink with the eye in the face of the Sun, are not capable of morality. But thoſe things which are at firſt onely natural, and afterwards are nurs'd by the will and diſcourſe, they are onely at firſt indifferent, becauſe they then onely are unavoidable. To look upon a woman is no ſin, if ſhe ſuddenly comes into our preſence, though every ſuch look by reaſon of the mans weakneſſe were a temptation: for at firſt there was no time to deliberate, and therefore we could not be bound not to look, and if we had not ſeen her, it had not been good at all, nor evil. But to look upon her ſo long till we luſt after her, to look upon her but to the entertainment of any faculty that miniſters to luſt, to obſerve that which is precious in her but ſo long that the will doe conſent to that which is, or is likely to be vile, that corrupts the manners and prevaricates the law.

18. 4. *No action of the will is indifferent*, but is either lawfull or unlawfull, and therefore good or bad. For although there is in many actions that which the School calls *indifferentiam ſecundum ſpeciem, an indifference in the kind* of action, or in reſpect of the object; yet when ſuch actions come under deliberation and to be inveſted with circumſtances, they cannot be conſider'd at all, but that firſt they muſt be underſtood to be lawfull or unlawfull; for that very objective or ſpecific indifference ſuppoſes the action lawfull: and he that does a thing though but with that deliberation and precaution, does doe well, unleſſe there be ſomething elſe alſo to be conſider'd, and then it may be he does better, or it may be ill; but when it is come as far as to be choſen and conſidered, it muſt be good or bad. For whatſoever that is about which we deliberate, we doe it for a reaſon that to us cannot ſeem indifferent; it is for an innocent and a good end, for good to our ſelves or others: and nothing can come under the conſideration of being an end of humane actions, but is directed by the words or by the reaſon, by the deſigne or the proportion of ſome law. For even our profit or our pleaſure are to be conducted by the meaſures of the ſpirit: and there

is

is nothing elſe beſides *profit* and *pleaſure* that is good, or can become the end of an action, excepting onely what is *honeſt*: and therefore every thing that is good or can be the reaſon of an action is under a law, and conſequently cannot be indifferent, according to the doctrine of S. *Auſtin*, *Quanquam voluntas, mirum, ſi poteſt in medio quodam ita conſiſtere, ut nec bona nec mala ſit: aut enim juſtitiam diligimus, & bona eſt, & ſi magis diligimus, magis bona, ſi minus, minus bona; aut ſi omnino non diligimus, non bona eſt. Quis vero dubitet dicere voluntatem nullo modo juſtitiam diligentem non modo eſſe malam, ſed peſſimam voluntatem? Ergo voluntas aut bona eſt aut mala*, &c. Whatſoever we doe, we doe it for a good end or an evil; for if we doe it for no end, we doe not work like men: and according as the reaſon is which moves the action ſo is the will, either good or bad: for though vertue oftentimes is in the midſt between two evils; yet the will of man is never ſo in the middle as to be between good and evil; for every thing that can move the will is good, or it ſeems ſo, and accordingly ſo is the will. de Peccator. merit. & remiſſ. c. 18.

19. Indeed every action we doe is not in an immediate order to Eternal bleſſing or infelicity; but yet mediately and by conſequence, and in the whole diſpoſition of affairs it addes great moments to it. *Bonum eſt continentia, malum eſt luxuria; inter utrumque indifferens, ambulare, capitis naribus purgamenta projicere, ſputis rheumata jacere. Hoc nec bonum, nec malum: ſive enim feceris, ſive non, nec juſtitiam habebis nec injuſtitiam*, ſaid S. *Hierom*. *Continence is good, and luxury is evil; but between theſe it is indifferent to walk, to blow the noſe, to ſpit. Theſe things are neither good nor bad, for whether you doe them or doe them not, you are by them neither juſt nor unjuſt.* For beſides that S. *Hierom* inſtances in things of a ſpecific and objective indifference, of which I have already ſpoken, that which he ſaies is true in reſpect of the ſupernatural end of man, to which theſe things (concerning which oftentimes we doe not deliberate at all, and even then when we doe deliberate, they) operate but little. But becauſe the inſtances are in natural things, where the will hath very little to doe, we ſhall beſt underſtand this propoſition by the inſtance of S. *Gregory*; *Nonnulli diligunt proximos, ſed per affectionem cognationis & carnis, quibus in hac dilectione ſacra eloquia non contradicunt.* Our natural love to our kindred is a thing ſo indifferent, not in it's own nature, but of ſo little concern to eternity if it be onely upon the ſtock of Nature, that all that can be ſaid of it is, that the Scriptures doe not forbid it. That is, whatſoever is natural is not conſiderable in morality. But becauſe this which firſt enters by nature is commanded by God, and can be confirm'd and improv'd by the will, therefore it can become ſpiritual: but *that which is natural is firſt, and then that which is ſpiritual*: ſo that although at the firſt and when it is onely the product of nature, it is but a diſpoſition and a facility towards a ſpiritual or moral duty; yet as ſoon as ever the will handles it, it puts on it's upper garment of morality, and may come to be inveſted with a robe of glory. And this was very well diſcours'd of by the Author of the Υπογωσικὸς in S. *Auſtin*; *Eſſe fatemur liberum arbitrium omnibus hominibus, habens quidem judicium rationis, non per quod ſit idoneum quæ ad Deum pertinent ſine Deo aut inchoare, aut certè peragere, ſed tantum in operibus vitæ præſentis, tam bonis quam etiam malis. Bonis dico quæ de bono naturæ oriuntur, id eſt, velle laborare in agro, velle manducare & bibere, In things pertaining to God we cannot begin, or at leaſt we cannot finiſh any thing without God and* Epiſt. 11. ad Auguſtin. homil. 27. in Evang. tom. 7. l. 3.

his grace. But in the things of this life we have a free choice, whether the things be good or evil. For thoſe I call good which doe natural good, as to be willing to work in the field, to will to eat or to drink. Now even theſe things are always good or bad when they are once choſen by the will, and to theſe very things the Divine grace does give aſſiſtance. So the ſame author, *Velle quicquid bonum ad præſentem pertinet vitam, non ſine Divino gubernaculo ſubſiſtunt*, A man cannot chuſe well even in things belonging to this life, without the Divine aſſiſtance. And therefore in things of great concernment we pray to God to conduct and direct our choice. And ſince the order and perfection of every creature is to doe actions agreeable to the end and perfection of his nature, it is a purſuance of the end of God and of his own felicity. Although to doe ſo is not vertue in beaſts, becauſe they are directed by an external principle, and themſelves chuſe it not; yet in men it is vertue, and it is obedience: and although it is natural to doe ſo, and it is unnatural to doe otherwiſe; yet becauſe it is alſo choſen in many inſtances, in them it is a vertue or a vice reſpectively: and though it be no eminent vertue to doe ſo, yet it is a prodigious ſin to doe otherwiſe; for ſins againſt nature are ordinarily and in moſt inſtances the worſt; which does demonſtrate, that even things of nature and the actions of our prime appetites, when they can be conſider'd and choſen, never can be indifferent; and for other things which are not of nature, there is leſſe queſtion. Thus to walk, to eat, to drink, to reſt, to take phyſic for the procuring health, or the eaſe of our labours, or any end of charity to our ſelves or others, to talk, to tell ſtories, or any other thing that is good or can miniſter good to nature or ſociety is good, not onely naturally, but morally, and may alſo be ſpiritually ſo: for it being a duty to God to preſerve our ſelves, and againſt a commandement to deſtroy our ſelves; it being a duty to be affable and courteous in our deportment, to be gentle and kind and charitable; it being charity to make our own lives and the lives of others pleaſant, and their condition not onely tolerable but eligible; there is no peradventure but every thing of our lives can be good or bad, becauſe if it can miniſter to good or evil ends, it can be choſen for thoſe ends, and therefore muſt partake of good or evil accordingly. How theſe ends are to be conſidered, and with what intention and actual or habitual intuition, I am afterwards to conſider: for the preſent it ſuffices that upon this account the actions themſelves are not indifferent.

20. And this doctrine is to great and ſevere purpoſes taught by our Bleſſed Matth. 12.36. Saviour, *Of every idle word that a man ſhall ſpeak, he ſhall give account in that day.* It was a known ſaying among the Jews, *Cavebit vir ne cum uxore loquatur turpia, quia etiam propter ſermonem levem viri cum uxore adducetur ille in judicium*, ſaid *Rabbi Jonah*; Even the looſeneſſe of a mans talk with his wife ſhall be brought into judgement: and *Maimonides* ſaid, *Pleraque verba ſunt otioſa & cauſam præbent iniquitatis*, Moſt words are ſuch which ſome way or other miniſter to iniquity, and therefore ſhall certainly paſſe the fiery trial. Πᾶν ῥῆμα πονηρόν, ſo it is in ſome Greek copies, *every wicked word*: for an idle word is not indifferent; it may have in it ſome degree of wickedneſſe, and therefore may be fit to be forbidden, and conſequently ſhall be judged. *Otioſum verbum eſt quod ſine utilitate & loquentis dicitur & audientis, ſi omiſſis ſeriis de rebus frivolis loquamur, & fabulas narremus antiquas. Cæterum qui ſcurrilia explicat, & cachinnis ora diſſolvit, & aliquid profert turpitudinis, hic non otioſi verbi, ſed criminoſi tenebi-*

in libr. Timoris.

In comment ad hunc locum.

11.

tur

tur reus, ſaid S. *Hierom*, That which neither profits him that ſpeaks nor him that hears, is an idle word; any thing that is not ſerious, but frivolous and like an old tale. But if it be diſſolute or wanton, it is not idle but criminal. S. *Chryſoſtome* expounds the words to the ſame purpoſe, calling that an idle word, which is ſpoken without juſt inducement in ſome kind or order of good things, and that which is mixt with lying or ſlander. *Omne verbum quod non conducit ad propoſitam in Domino utilitatem vanum & otioſum eſt*, ſaid S. *Baſil*; That word which is not for edification, that is, that which does no good at all, muſt needs be evil: Nay further yet, *Verbum otioſum eſt quod, etiamſi bonum ſit, ad ædificationem fidei tamen non aptatur. Et ſi ejuſmodi verba in celeberrimo illo totius orbis conventu examinabuntur, quid ſcurrilibus, & detrahentibus, & obſcœnis verbis fiet? That is an idle word, which although it be good, yet does not tend to the edification of faith: and if ſuch words as theſe ſhall be examin'd in the great aſſembly of all mankind, what ſhall be done to detracting, ſcurrilous and laſcivious talkings?* I ſuppoſe, S. *Baſil*'s meaning is that all thoſe propoſitions which being built upon the foundation are not fit for the promotion of it, they are not ſilver or gold, but a ſuperſtructure of wood or hay or ſtubble: even theſe and thoſe ſhall be examin'd in the eternal ſcrutiny; nothing ſhall eſcape there; if it will not endure the fire, it ſhall be conſumed. For if the action here have any material end, it ſhall hereafter have a material reward: if it have no end, yet the man that did it was ſent hither to a better end then to doe fooliſh and uſeleſſe things. The very doing or ſpeaking that which is good for nothing, is evil, and ſhall be diſcern'd and judged. We ſee it even in the judgements of men. *Martial* tells of a good man that had got a trick to invite his friends to walk, to bath, to eat, to drink with him, and in all his enterviews he would be perpetually reading of his verſes: one would have thought the thing it ſelf were innocent, if the queſtion had been ask'd concerning the thing alone; but they that felt the folly and the tediouſneſſe of it, were afraid to ſee him.

in Regul. brevior. reſp. ad interr. 23.

Vir probus, juſtus, innocens timeris.

And *Sidonius* tells of ſome idle perſons, *quos execrabilis popularitas agit; civium maximos manu prenſant, éque conſeſſu publico abducunt, ac ſequeſtratis oſcula impingunt, operam ſuam ſpondent, ſed non petiti. Utque videantur in negotii communis aſſertione legari, evectionem refundunt, ipſoſque ſumptus ultro recuſant, & ab ambitu clam rogant ſingulos, ut ab omnibus palam rogentur*, &c. their very civility is troubleſome, their idleneſſe is hugely buſy, and their imployment ſignifies nothing.

Epiſt. 20. lib. 5

Ardelionum natio, occupata in otio,
Gratis anhelans, multa agendo nihil agens,
Sibi moleſta & aliis odioſiſſima.

Phædr. fab. l. 2. 36.

They doe nothing, and yet never ſtand ſtill, and are very troubleſome to themſelves and others. Such an idleneſſe as this, whether in words or deeds, if it can be conſider'd and obſerved here, ſhall not eſcape a ſtricter conſideration hereafter. For none of theſe things in the event of affairs ſhall prove to be indifferent.

11. The effect of this queſtion is very great; for it ingages us upon a ſtrict watchfulneſſe over all our words and actions, and to a wiſe inquiry when they are done, and ſcatters that incurioſneſſe and inadvertency of

ſpirit which ſeizes upon moſt men while they doe actions which they conſider not whether they be right or wrong, and ſuppoſing actions, many more then there are, to be *in their whole kind* indifferent, would fain make them ſo *in their individual*, and by never diſputing the particulars, detain the action in a neutrality as to the Conſcience, never repreſenting it either as lawfull or unlawfull, much leſſe as good and evil. But our actions ſhall be judg'd by Gods meaſures, not by our wilfull and ignorant miſtakes. 2. Every thing we doe muſt twice paſſe through the Conſcience; once when it is *to be* done, and again when *it is* done: And not onely whatſoever is not of faith is ſin, ſo that we ſin if we are not perſuaded it is lawfull; but it becomes a ſin, when we are careleſſe and conſider not at all, either actually or habitually, either openly or by involution, as it is alone or as it is in conjunction with ſomething elſe, by direct intuition or conſequent deduction, by expreſſe notices or by reaſonable preſumptions, by rule or by fame, by our own reaſon or by the reaſon of others whom we may fairly truſt.

Queſtion II.

22. *Whether is it neceſſary for the doing of good that we have an expreſſe act of Volition? or is it not ſufficient in ſome caſes that we are not unwilling? Is it not enough that we doe not oppoſe it? but muſt we alſo promote it?* That is, *Although actions of themſelves be not indifferent when they are choſen; may not the will be allowed to be indifferent to ſome good things that are laid before her? and what kind or degrees of indifference to good can be lawfull, and in what caſes?*

23. This is not a queſtion of ſingle actions principally, but of ſtates of *life* and *being*, and of ſingle actions onely by conſequence and involution in the whole: But of great uſefulneſſe in the conduct of Conſcience and making judgements concerning the ſtate of our ſouls; and it is a great endearment of the actions, the zeal and forwardneſſes of the will and an active piety. Firſt therefore in general I anſwer, then more particularly.

24. In the Law of *Moſes the righteouſneſſe* commanded was a deſigne for *Innocence*, their great *Religion* was *Reſt*, their *Decalogue* was a ſyſteme eſpecially of *Negative commandements*, the ſanction of the Law was fear and terror, which affrights all men, but invites none, it makes them afraid, but never willing; their offices were purifications and cleanſings away: but ſo little of good was to be done, that God was more carefull that the people ſhould not commit idolatry, then ſevere in calling them to admire his beauties; that they ſhould learn no evil, then that they ſhould learn much good. Now to this negative ſtate of duty, a will doing nothing, an underſtanding not conſidering, a forgetfulneſſe of the queſtion, and a ſitting ſtill might in many caſes miniſter; and then the will is accidentally indifferent, when the action never ſtands before it, either as good or evil. But now under the Goſpel we are unclean unleſſe we have active purities, and we are covetous unleſſe we deſpiſe the world, and we are malicious by interpretation of law, unleſſe we take what opportunities we have of doing good to them that have us'd us ill, and even to be luke-warm is abominable to God, and our tongues may ſin with ſilence, and we are to keep holy-days not by reſt, but by religious labour, and we diſhonour the holy Name of God not one-

ly

ly by curſed ſwearing, and falſe oaths, and evil covenants, but if we doe not doe him honour; if we doe not advance his kingdome we are rebels, if we doe not ſet his glory forward we have prophan'd his *holy name that is called upon us.*

25. And this is with ſome myſteriouſneſſe intimated in the ſeveral ſenſes of thoſe words of Scripture [*Therefore let my Name be called upon them.*] So *Jacob*'s name was called upon *Rebeccah*, and *Uriah*'s name upon *Bathſheba*; *Rebecca Jacobi, & Uriæ Bathſhebæ:* and upon *Ephraim* and *Manaſſeh* when *Jacob*'s name was called, the purpoſe was that they ſhould be reckon'd not as if they had been ſons of *Joſeph*, but the ſons of *Jacob*, having an equal portion in the diviſions of *Iſrael*. So in the Prophet *, *Onely let thy Name be called upon us*, that is, let us be reckon'd in thy portion, accounted *to be thy people, thou our Father*, and we *Sons and Daughters unto God.* Now in theſe inſtances of the Old Teſtament, it ſignifies honour and privilege, ſecurity of title and advantage of relation, ſomething that on their part was paſſive all the way. But in the New Teſtament we find the ſame expreſſion rendred to ſuch purpoſes as will ſignifie ſomething on our parts alſo, ſome emanation of our will and choice, even an active duty. Βλασφημοῦσι τὸ καλὸν ὄνομα τὸ ἐπικληθὲν ἐφ' ὑμᾶς, *They blaſpheme that holy Name which is invocated upon you*, that is, they blaſpheme the Name of Jeſus Chriſt which was put upon them in baptiſme, by invocation and ſolemn ſacramental prayer. The Name of Chriſt was then put upon us in that manner which teaches us how to wear it for ever after: it was called upon and ſo put upon us; it muſt be called upon, and ſo worn by us. Here is invocation relative to two termes, both active and paſſive. And ſince it is evident and clear in the Scriptures of the New Teſtament that *calling on the Name of the Lord* is us'd for being *Diſciples* and *ſervants of the Lord*, as appears in thoſe words, *Whoſoever ſhall call on the Name of the Lord ſhall be ſaved*, that is, all that have given up their names to Chriſt, all that have taken his Name and live accordingly; it follows that all we who bear the name of Chriſtians muſt not be content with the glorious appellation, or the excellency of the relation, but we muſt by our holy lives, by our active obedience, by an operative faith, and a buſy love doe honour to Chriſt, and glorify that Name by which we are called and made illuſtrious.

* Iſai. 4. 1.

Gen. 48. 16.

James 2. 7.

26. And this is rarely well taught us by a proverbial ſaying uſed by our Bleſſed Lord, *He that is not with us is againſt us; and he that gathereth not, ſcattereth abroad:* that is, it is not enough that our will doe not chuſe evil, or oppoſe it ſelf againſt God, and his holy laws and ſermons. For many unconverted Gentiles, children and ſtrangers, the luke-warm and the indifferent, the deaf and the dumbe, the ſtones of the ſtreet and the gold of the Temple, the ſtarers and the talkers, the Sceptic and the careleſſe, theſe have a negative indifference of will; they doe not take part againſt Chriſt, but neither doe they fight of his ſide, and therefore are not *populus voluntarius*, their will and choice is not on Chriſt's ſide. But the particulars are theſe, which determine the caſes of Conſcience which can ariſe from this inquiry.

Matth. 12. 30. Luke 11. 23.

27. There are in the Goſpels two proverbial ſayings, each of them twice us'd. *He that is not with us is againſt us*] and, * *He that is not againſt us is with us.*] The ſayings are of contrary purpoſe and effect. For as the firſt

* Marc. 9. 40. Luke 9. 50.

injoyns us to the labour of love, and an active will, and an effective zeal, and a religion productive of permanent effects; ſo the latter ſeems to be content with negative meaſures, to approve of an indifferent will, to allow a neutrality, and that not onely many ſingle actions, but that a whole ſtate of life may have a negative indifference and indetermination. Now becauſe both the propoſitions muſt needs be true, they muſt have diſtinct meaſures, and proper ſignifications. Therefore

28. 1. When Chriſt ſaid, *He that is not againſt us is with us*, he meant it principally of ſtrangers and aliens, perſons not admitted into the ſtrictures of the Covenant Evangelical. For when the Princes of the nations conſpire againſt the Lords Chriſt, he that refuſes to joyn with them, declares that he will not be Chriſts enemy; and *eſt quiddam prodire tenus*, this little is more then nothing. Thus *Gamaliel* was on Chriſt's ſide, when he gave a gentle counſel in a caſe of the Apoſtles, with whom although he did not joyn, yet becauſe he would not joyn againſt them, he was ſo far with them, that he was not eſteem'd an enemy: and it was noted of *Joſeph* of *Arimathea*, that he was not conſenting to the ſentence of the high Prieſts in putting our Bleſſed Lord to death, and therefore he was a good man. His not doing that evil was a great indication of a friendly mind.

29. 2. This is alſo true in queſtions of religion of difficult underſtanding, and leſſe neceſſary knowledge, or not of immediate concernment to ſalvation. He that does not disbelieve the miracles of Chriſt, he that does not ſtop his ears againſt the voice of Chriſt, he that does not run after a ſtrangers voice, *is not far from the kingdome of heaven*: though the man knows little, yet if he believes nothing againſt any word of Chriſt, though many words of Chriſt were deliver'd of which he knows nothing, he hath put his head into the folds of Chriſt. For in articles of belief which are not of the foundation, an implicite belief in God and his Chriſt is ſufficient, when there is no vitious poſitive cauſe of the not knowing them explicitely: and if this were not true, ignorant and unletter'd perſons were tied to as great learning and explicite knowledge as the profoundeſt Clercs; which becauſe it is no where commanded, and is very often impoſſible, and always unreaſonable to be exacted, it muſt follow that it will in moſt caſes be enough for the ideot or unlearned that they doe not oppoſe what they doe not underſtand, but humbly ſubmit themſelves to God and their ſuperiors, by a confident confeſſion of what they underſtand, and a modeſt conformity to thoſe other articles in which public peace is more concerned then public truth, or their private duty. In this caſe a negative indifference of the will by reaſon of the ignorance of the underſtanding, that is, a not oppoſing what they underſtand not, and cannot underſtand, is their ſecurity and their innocence.

30. 3. He that is not againſt Chriſt is with him, is true in the preparations and diſpoſitions to converſion. For he that makes uſe of a little grace ſhall have more; and he that well uſes the laws of his country, and keeps the juſtice of his nation, and obſerves the principles of reaſon, and walks according to the light he hath, though he hath not the broad noon-day of the Goſpel, yet he is ſo far on Chriſt's ſide, that Chriſt will joyn himſelf to his, and draw him nearer, and advance his Nature, and promote his excellent diſpoſitions, and by the methods of the ſpirit bring him to God.

Upon

Upon this ſtock it was that God ſent S. *Peter* to *Cornelius*, and that ſo many of the Jewiſh Proſelytes were converted to Chriſtianity, and ſo many wiſe Heathens, who had juſt and ingenuous ſouls and liv'd good lives, were brought into the ſchools of Chriſt.

31. 4. This is true alſo in the habits or actions of any one vertue when it is alone, or when it comes in upon the ſtock of nature, or education, or paſſion, or humane laws. He that does one good act for Chriſt, though he doe no more, by that one action declares himſelf to be no enemy, and therefore he ſhall not looſe his reward; though he give but *a cup of cold water to a thirſty diſciple*, in that capacity of his being a diſciple; nay if it be but in the conſideration of his being thirſty, if it be but by a natural pity and tenderneſſe, by the emotions of humanity, by the meltings of a worthy diſpoſition and of tender bowels: and therefore much more ſhall every worthy habit, though it be alone, though entring from a leſſe perfect principle then a ſpiritual and Chriſtian grace. The chaſtity of *Lucretia*, the honeſty of *Decianus*, the truth of *Rutilius*, the bravery of *Scævola*, the repentance of *Ahab*, the humiliation of *Manaſſes*, the zeal of *Jehu*, the compaſſion of *Titus* over *Jeruſalem*, theſe things and theſe perſons are conſider'd by God, and have their portion of reward. And he is not wholly againſt Chriſt that does any thing for him: for our Bleſſed Lord is ſo gracious, that no man ſhall ſpeak a word for him, or relieve any of his ſervants, or keep a memorial, but as far as that action goes, according to the proportion of the choice and the good will, Chriſt will reckon him to be on his ſide, and allot him a portion of his bleſſing, a yonger Brothers part, though not the inheritance.

32. 5. This is true of thoſe who being ſecretly convinc'd cannot yet ſhake off their prejudices and their pitiable fears, who own Chriſt in their hearts, whoſe faith is weak and their doubts are ſtrong, who fear God heartily, and yet cannot quite ſhake off the fear of men; they alſo are reckon'd on Chriſt's ſide ſo far, that they are not preſent and actual enemies, but actual friends, and but potential profeſſors and Diſciples. Thus *Nicodemus* was on Chriſt's ſide by not being againſt him. He owned as much as he durſt; he ſpake in behalf of Chriſt, but profeſs'd him not; he believ'd in him, but fear'd the Jews. This was not enough to adopt him into the kingdome, but this brought him from the enemies ſide, like the *Kenites* and the ſons of *Rechab* in the land of *Iſrael*.

33. 6. To be with Chriſt hath many parts and degrees of progreſſion and avail. Every man that profeſſes Chriſt is with him; he that is baptized, he that is called Chriſtian, he that delights in the name, he that is in the external communion of the Church is in ſome ſenſe with Chriſt, becauſe he is not againſt him. For whoever is a member of the Church, whoſoever retains his baptiſmal right, he that hath not renounced Chriſtianity, loſt his faith, defied Chriſt, or turn'd Apoſtate, he is ſtill within the covenant of mercy, within the limits of grace and the power of the ſpirit; that is, he hath a right to the privilege and grace of being admitted to repentance and the conſequent grace of pardon: for baptiſme is for the remiſſion of ſins, and as long as that is not renounc'd, we have a perpetual title to remiſſion of ſins, the Sacrament as to this purpoſe being of perpetual effect. Every ſuch perſon is yet a member of Chriſt, though barren

and

and unfruitfull: his leaf doth not proſper and his fruit ſprings not, yet there is a root remaining. For thus the Goſpel is compar'd to a net with fiſhes good and bad, to a field of corn and tares. For no man is thrown from grace and mercy but the open, profeſs'd, irreconcileable enemies of Chriſt, voluntary and malicious Apoſtates; for they are cut off from the root, and have no portion in it, as S. *Paul* largely diſcourſes in the *ſixth* and *tenth* Chapters to the *Hebrews*. But thoſe who ſin againſt Chriſt, & diſhonour and grieve the holy Spirit of Chriſt, who ſin and repent and yet ſin and repent again, being always ſorrowful, and always have cauſe, theſe men have hopes, and time, and helps, and arguments, and probabilities of life, which they could not have but by being members of Chriſt's myſtical body. They are with Chriſt in Covenant and deſire, in title and adoption, becauſe they are not againſt him in profeſſion and voluntary hoſtility: but they muſt goe further, or they die.

34. For all this effects nothing elſe, but that we are tied to treat ſuch perſons not as enemies but as brethren; it expoſes ſuch to be chaſtis'd and guided by the rod of Eccleſiaſtical diſcipline, but not to be cut off by the ſword of exciſion and *anathema*, and ſentences of deſpair; it does manifeſt the goodneſſe of God, the glorious mercies of our Redeemer, his aptneſſe to pardon, his readineſſe to receive us, his deſires to have us ſav'd, his paſſion for our felicity, and the preſence of his preventing and auxiliary grace. But this was but the Proverb of ſtrangers and beginners, of infants and babes in Chriſt.

35. 7. But when we are entred into the Covenant of Grace, when we have declar'd, when the queſtion is concerning final pardon and the hopes of glory, then the other Proverb is onely true. It is not enough that we are not againſt Chriſt, but *we muſt be with him and for him*, earneſt and zealous, paſſionate and obedient, diligent and true, induſtrious and inquiſitive; then it is, *He that is not with Chriſt is againſt him*. For it is not enough that we are in the root, that is, in preparation and diſpoſition, but we muſt
John 15. 1, 2. alſo bear fruit in the root; for ſo ſaith our Bleſſed Saviour, *I am the Vine; my Father is the Husbandman: Every branch in me that beareth not fruit ſhall be cut off*. Firſt they are in Chriſt as in the vine, before they can bear fruit; and there he ſuffers them to be in expectation of fruit; of which if they fail in their ſeaſon, they ſhall be cut off. * For the caſe between Chriſt and the world is as it was between *Cæſar* and *Pompey*. *Pompey* had the poſſeſſion and the right: and therefore as *Cicero* in his Oration *pro Ligario* affirms, *Pompey*'s party acknowleged none but his certain and profeſſed friends; *adverſarios autem putare niſi qui nobiſcum eſſent*, and all to be againſt them that were not with them: *Te autem* (ſaith he to *Cæſar*) *qui contra te non eſſent, tuos*. For *Cæſar* was but entring upon his new fortune, and all that he could get to himſelf, and all that would not aſſiſt his enemy, were his purchaſe or ſecurity. So it is with Chriſt in the beginnings of our Converſion; it is a degree of victory to arreſt our thoughts, and our not conſentings to the world and it's fond affections, is an approach and an acceſſion to Chriſt. But when our Lord hath gotten the firſt victories, when he hath acquir'd poſſeſſion as well as right to a ſoul, and hath a title to rule alone, then the propoſition is chang'd. Chriſt will not be ſatisfied with neutrality and an indifferent undetermin'd will, but he will have our love and active choice, and he will be honour'd by all our ſervices: and then the Chriſtian philoſophy

philoſophy relies upon theſe principles: * *He that does not love God is his enemy*; * *Not to goe forward is to goe backward*; * Not to doe good is a doing evil, and luke-warmneſſe is an evil ſtate; and * We muſt not onely not reſiſt the word of truth, but *we muſt contend earneſtly for it*; and * *We muſt confeſſe with our mouth, what we believe with the heart*; * To be a Chriſtian is to hurt no man, and to doe good to every man; and * We muſt not onely proceed when we are not hindred, but we muſt take care that we be not hindred, we muſt remove every impediment, and pare away that which is uſeleſſe; for *obſtat quicquid non adjuvat*, if it does no good, it does hurt: and when the talent is intruſted to us it muſt not onely not be ſpent riotouſly, but it muſt not be laid up in a napkin. *Penſemus quod lucrum Dei fecimus nos qui accepto talento ad negotium miſſi ſumus.* Unleſſe we gain and put ſomething to God's heap, we are unprofitable ſervants.

Quintil. l. 8. c.

S. Greg. Homil. 7. in Evang.

36. By the proportion of this truth in the ſtate of our life, we are to account concerning our ſingle actions; not that every ſingle action muſt be effective of a real, diſcernible event of piety, but that it be fitted to the general deſigne of a Chriſtians life; nothing of evil, but miniſtring to good ſome way or other, or at leaſt in ſome good order of things; good for edification, or good in charitable ſociety, or good for example, or uſefull to ſome purpoſe that is fit to be deſign'd, and fit to be choſen.

RULE II.

The virtual and interpretative conſent of the Will is imputed to Good or Evil.

1. THis Rule is intended to explicate the Nature of *Social Crimes*, in which a mans will is deeper then his hand, though the action of the will is often indirect and collateral, conſequent or diſtant; but if by any means it hath a portion into the effect, it is intire in the guilt. And this happens many ways.

2. 1. *By Ratihabition and Confirmation.*

In maleficio Ratihabitio mandato comparatur, ſaith the law: To command another to doe violence is imputed to him that commands it more then him that does it. So *Ulpian* interpreting the interdict *Unde tu illum vi dejeciſti*, affirms *eum quoque dejicere qui alteri mandavit vel juſſit*: and therefore *Ptolemy* was guilty of the bloud of *Pompey* when he ſent *Pothinus* to kill him,

ff. de reg. ju. l. 152.

Hic factum Domino præſtitit....

Now becauſe *ratihabition* is by preſumption of law eſteem'd as a Commandement, therefore *Ulpian* affirms of both alike, *Dejicit & qui mandat, & dejicit qui ratum habet.* He that commands, and he that conſents after it is done are equally reſponſible. Now though the law particularly affirms this onely *In maleficio* in criminal and injurious actions, yet in the edition of *Holoander* that clauſe is not inſerted; and it is alſo certain that it holds and is true in contracts and civil affairs. Thus what a ſervant or a

ſon

ſon imployed by his Father or his Maſter ſhall contract for, is the Father's act if he accounts it valid. If the ſon borrows money in the Father's name, the Father is the debtor. But in matters Criminal and Civil there is a real difference as to this particular.

3. For in matters Criminal, ratihabition or approving of the act does always make the approver guilty. The Jews crucified their Lord and King: he that ſaies it was well done, is guilty of that intolerable murder, and for an ineffective malice and ſpite, procures to himſelf a real and effective damnation. But in actions Criminal there is this difference to be obſerved. Some actions are done by the luſt and appetite of the Criminal agent onely, as adultery, rape, fornication; and if this be the ſtate of that affair, that ſin is wholly imputed to him that acted it, not to him that approves it. He that approves it is indeed guilty of the ſame kind of ſin, becauſe he hath applied his will to that which God forbids, and for his luſtfull diſpoſition approv'd and conſented to by his will commits a ſin like it, but is not guilty of that. 2. But if ſuch approbation become an incouragement to the Criminal to doe ſo again, if it fortifies his heart in ſin, or hardens his forehead, or makes it pleaſant, he that approv'd the firſt is not onely guilty of a ſin like the firſt, but partakes with the Criminal really in the guilt of the ſins that follow upon that account. 3. But there are other ſins which are, as the law ſpeaks, *ratihabentis nomine geſta*, which are done in anothers Name, and either *partly* or *wholly* for his intereſt; and therefore if by him they be approv'd, the ratihabition is valid to all evil purpoſes, and is therefore all one as if the actions were by him commanded for whoſe intereſt they were acted, and by whoſe will they are approved. And thus it is alſo in the former ſins which ſerve the luſt of him that acts them, if beſides the ſerving of his luſt they are deſigned to ſerve anothers intereſt; as if *Titius* ſteal *Sempronia* and run away with her, or lie with *Mævia* the daughter of *Amilius* to doe a ſpite to the Father for the injury he did to *Tubero*, not onely *Titius* but *Tubero* is guilty of the crime, if *Tubero* approves what *Titius* did for his ſake.

4. But now if it be inquir'd what real event as to Conſcience this nice diſtinction without greater difference can have, that in one caſe he that approves the ſin is not guilty of the ſame but another like it, and in the other caſes he is partner of the ſame fault; I anſwer, Firſt, in humane laws the difference of effect is very great. For to approve an act of ſin done not in my name introduces no puniſhment upon the approver; but if it be done in my name and for my intereſt, by a fiction or preſumption of law it is ſuppos'd I gave command or warranty, and therefore I alſo ſhall partake of the puniſhment, unleſſe by the conſideration of other circumſtances I be relieved in equity, and the preſumption be found to fail. But in the court of Conſcience the difference depends not upon preſumption; but upon what it is in the truth of the thing, which ſhall be judged well enough by him that knows the ſecret. For whether the crime was done for me or not, I ſhall be judg'd according to that influence which I would have upon the effect. If I will'd it directly and caus'd it to be done knowingly, or by ſome cauſality which I at any time us'd to that purpoſe, I am liable to all the evil that can be conſequent to that ſin: but if I be guilty onely by ratihabition, that is, if really I did not command it, or effect it, or cauſe it to be effected, but onely rejoyce in it and uſe it when it is done, then my ratihabition is ordinarily (though very evil) yet much leſſe then the other's action.

I ſay ordinarily, that is in all caſes where craft and machination, plots and contrivances, intermedial violences and deceivings, and other evil things of the retinue of the ſin are previous to the crime. For in all theſe things he that onely approves the act hath commonly no intereſt, or care, or notice, or conſideration. If it happens that he conſiders and approves them too, then the caſe is alter'd: but it is not always ſo. This caſe will explicate the Rule. *Ventidius* was married to *Romanella*; but growing rich, and being made a *Roman* Knight, grows weary of his firſt bed-fellow, becauſe he hopes now to get a richer wife if ſhe were gone. While he tumbled this often in his head, it hapned that a ſlave of *Ventidius* upon ſome trifling occaſion, but in a great paſſion, flings ſomething at *Romanella*, which cauſed her to miſcarry, and to die. *Ventidius* obſerving his good fortune, ſecretly puts away his ſervant that he may eſcape the hand of juſtice, and promiſes him liberty, making what pretences he found convenient to his purpoſe. He went preſently to get him a new wife, but was arreſted in his deſigne, becauſe he was told that he that was guilty of his wives death was to looſe the privilege of a ſecond marriage; but becauſe he confirm'd it and rejoyc'd in it, it was eſteem'd in law as a Commandement. Upon this he takes advice, and was told, that though in Conſcience he was guilty of murder, becauſe he delighted in and approv'd it, yet mere ratihabition in ſuch things which muſt be judg'd not by the effect but by the previous machination and deſigne, did not produce that puniſhment of impeding his future marriage. And there is reaſon for it; becauſe though *Ventidius* was ſo baſe as to wiſh his wife dead or kill'd, yet he would not doe it himſelf, nor procure it to be done, his covetouſneſſe had not prevail'd ſo far with him; and therefore neither ought the puniſhment goe to the extremity of the law. 2. In Divine laws and in the direct obligation of Conſcience there is this great difference. If a crime be done in my name, and I approve it, I am not onely guilty before God of the crime, and liable to an equal ſhare of the puniſhment (according to the foregoing meaſure) but I contract a new neceſſity of duty; I am bound to reſtore the man that ſinn'd for my intereſt to his former ſtate of juſtice and integrity as far as I can, by diſallowing the act, by diſcountenancing it, by profeſſing my own repentance, by inviting him to the like: which obligation is not at all upon me by a ſimple and mere ratihabition of an act in which I have no intereſt, and to which I had no previous concurſe, directly, nor by interpretation. This is the ſtate of this queſtion in relation to matters *Criminal*.

5. But in matters *Civil*, as in contracts, debts, pledges, proviſions for pupils, the law is to determine the whole affair, and to account the ratihabition at what rate ſhe pleaſe, and upon what conditions; and therefore we are to be determin'd by our own laws in all ſuch inquiries. That which can be a general meaſure and relates any way to Conſcience is this; Where the law does require an expreſſe command *pro forma*, the after-ratification is of no effect in law, nor conſcience, if the law impedes the effect. Thus if a Minor makes a contract without the conſent of his Guardian, though afterward the Guardian allow it, the contract is invalid: becauſe the law requir'd in the very form and ſolennity of the contract that the authority of the Guardian ſhould be interpos'd; and *ea quæ pertinent ad ſolennitatem contractus, à contractu dividi non poſſunt*, ſay the lawyers; and *ubi forma actus deficit, corruit actus, l. Julianus. 9. §. ſi quis. ff. ad exhib.* If there be an eſſential defect of what is by law requir'd to the validity of the act, the

act is null and invalid, and therefore is alſo invalid and effects nothing in Conſcience, unleſſe where the law of Nature intervenes; of which I have already given accounts*. Thus alſo it is in puniſhments which are not to be incurred but in caſes nam'd in the law, and therefore are not to be impos'd in caſes of preſumption or fiction of law, amongſt which is this, of the equivalence of ratihabition to a command. If the ſon marries a widdow within the year of mourning, he is legally infamous; but ſo is not the Father, though he approves it, unleſſe he did conſent in the beginning; becauſe theſe effects being wholly depending upon poſitive laws, can have no other meaſures but what the laws put upon them. But in the Court of Conſcience the matter is not ſo eaſy.

* lib. 2. Chap. 1. Rule 5.

Vide Petrum Peckium ad c 10. Ratihabitionem. de regul. jur. in 6to.

6. But ſince ratihabition is at the worſt but an interpretative command, and yet is ſo very bad as to imprint the guilt of the whole action upon him that ſo hath influence into the effect by interpretation, it muſt needs be that a direct command is more evidently criminal, and in greater degrees; which I needed not to have obſerved but in order to a further inquiry, and that is,

Queſtion.

Upon whom doth the greater portion of the Guilt lie; upon him that commands a ſin, or him that ſins in obedience?

Although the queſtion of degrees may here be uſefull to ſome purpoſes of Conſcience, yet it is juſt to condemn them both with a downright ſentence. For ſo the wiſe Ape in *Eſop* judg'd the queſtion between the wolf and the fox about a piece of fleſh which the fox had ſtoln from the village, and the wolf had ſtoln from the fox, who now complain'd of the wrong. The judicious ape anſwer'd,

Phædr. fab. 10.

Tu non videris perdidiſſe quod petis:
Te credo ſubripuiſſe quod pulchre negas.

The fox ſaies he hath loſt it, but he lies; and the wolf ſaies he hath not ſtoln it, and he lies too. They were both in the wrong, and it was hard to ſay which was the worſe. But becauſe although they were equally wicked in their nature and their manners, yet in this cauſe there might be ſome difference, and in the partners and confederates in a crime ſome have more cauſality then others, though both of them are in a ſad condemnation; therefore

7. To this I anſwer by a diſtinction known in the Civil law, of *Mandatum* & *Fuſſio*. *Mandatum* is amongſt equals, by bidding, incouraging, warranting and ſetting on; and in this caſe, they are both equally guilty, except what difference can be made by the degrees of confidence and earneſtneſſe, and by wit and folly, by the advantage and reputation of the man that bids, and the weakneſſe of him that is bidden. But *Fuſſio* is from Superior to Inferior; Father to Son, Maſter to Servant, Prince to Subjects. In this caſe and amongſt theſe perſons the efficiency is unequal, and hath it's eſtimate from the grandeur and ſacredneſſe of the authority, and the degree of the fear which can be the inſtrument of prevailing and determining. And

And therefore when *Attilius* had ſpoken gently with *Gracchus ut Patriæ parceret*, ſeeming to have diſcover'd his deſign, *Gracchus* looking terribly upon him, one of his ſervants, *non expectato ſigno, ex ſolo vultu conjectans adeſſe tempus, ratuſque initurum ſe gratiam apud Patronum ſi primus rem aggrederetur, ſtricto ferro trajecit Attilium*, ſaith *Appian*, *ſtaied neither for command nor ſign, but ſuppoſing by his forwardneſſe he ſhould pleaſe his Patron, and gueſſing by his cruel aſpect it would not be diſpleaſing to him, he kills* Attilius *upon the place.* Now ſuch an influence as this from a ſuperior to an inferior is ſo little, that the ſervant is much more to blame then the Maſter. But when *Henry* the ſecond in a rage complain'd that none about him would rid him of that peeviſh man, meaning Arch-Biſhop *Becket*, it was more then the frown of *Gracchus*, but yet not ſo much as to leſſen the fault of the ſacrilegious homicides; becauſe there was no violence done to their choice, but the crime entred upon the account of luſt and ambition, and that was as bad as if it had begun and ended upon the ſtock of their own anger or revenge. But when a Prince or a Lord commands his ſubject to ſin, as *Domitius* the Father of *Nero* commanded his freed man to drink to drunkenneſſe, ſo earneſtly that he kill'd him for refuſing it, and as *Cambyſes* did to *Praxaſpes*; then it is evident that the Prince is ſo much more guilty then he that obeys, by how much it is evident that the ſubject ſins with leſſe delight, and a more imperfect choice, and with a will which in it's actions ſuffers diminution: and therefore in ſuch caſes ſervants are very much excuſed from puniſhment in exterior courts, as knowing that ſuch actions proceed from an excuſable principle, from a regardfull *obedience*, and an undiſcerning *ſubjection*; which becauſe in moſt things it ought not to diſpute, they not diſcerning their utmoſt limit, being born to ſerve, not to rule and diſtinguiſh by their reaſon, and beſides this, having all their fortune bound up in their Maſters frown or favour, are very much to be pitied if they obey too much; *etenim quod imperante te ſervus tuus Faciebat, abs te id eſſe factum exiſtimo.* And this the law it ſelf obſerves in the commands of ſome ſuperiors: *Qui juſſu judicis aliquid facit, non videtur dolo malo facere, cui parêre neceſſe habet*; The command of ſuch a ſuperior whom we eſteem it neceſſary to obey, exempts our obedience from being Criminal. And though this of Judges be a particular caſe, becauſe *Res judicata pro veritate accipitur*, ſaies the law, they declare law by their ſentence and commands; yet the *Romans* obſerv'd it in the caſe of Clients and freed men to their Patrons, as *Livy* reports it in the caſe of the freed man of *Appius* the *Decemvir*; and the old books of Philoſophers obſerv'd it in the obedience of children to their parents, as *Aulus Gellius* recites out of them.

de Bello civil. l. 1.

Avien. fab.

l. 167. §. 1. Qui juſſu.

l. 207. ff. de reg. jur. & Ulpian. lib. 1. ad legem Juliam & Papiam. lib. 3.

lib. 2. c. 7.

8. But then this alſo admits of one diſtinction more, which the law thus expreſſes; *Ad ea quæ non habent atrocitatem ſceleris vel facinoris, ignoſcitur ſervis, ſi vel Dominis vel his qui vice Dominorum ſunt, velut Tutoribus & Curatoribus, obtemperaverint*, Servants and inferiors are excus'd if they tranſgreſſe at the command of their ſuperiors in a ſmall matter, but not in a great. This is obſerved by the Sages of our Common law. If a Feme covert doth ſteal goods by the commandment of her husband (without other conſtraint) this hath been holden to be felony in her, ſaith S^r *Richard Bolton* the L. Chancellor of *Ireland*: and for this he quotes *Bracton*, and addes this reaſon out of him; For *licet Uxor obedire debeat viro, in atrocioribus tamen non eſt ei obediendum*, In great matters, and ſins of high nature, a wife is not to be excus'd for her obedience. But if the husband not onely

l. 157. §. ad ea quæ.

commands, but uſes compulſion, then it is ſo far excus'd, that in the wife the *theft* is not felony; but *murder* is, becauſe the greatneſſe of the horror in ſuch a fact is ſufficient to prevail againſt the husbands threatnings and her own fear, unleſſe there were in her ſome evil principle. If a ſervant defending his lords right doe ſome injury, he is excus'd in law, but not if he kills a man; if he ſpeaks a rude word he may be born with, but not if he ſteals a horſe. And this alſo hath ſome proportions of truth in the Court of Conſcience, that if the ſuperior be great, and the command be urgent, and the inſtance not very conſiderable, the fault is by every of theſe conſiderations very much leſſen'd, but the man is not totally excus'd; his excuſe is upon the ſtock of fear or a great temptation: ſo far as they intervene in the preſent caſe, and ſo far as they can excuſe in any (which I am afterwards to conſider) ſo far the guilt ſuffers diminution. But the advice of the ſon of *Sirach* is the great rule in this queſtion, *Accept no perſon againſt thy ſoul, and let not the reverence of any man cauſe thee to fall.*

l. 11. is qui in puteum. §. 6. ſi Tutoris juſſu. ff. quod vi aut clam. l. 17. ſed ſi unius. §. ſi juſſu Domini. ff. de injuriis.

Ecclus. 4. 22.

9. But all this is to be underſtood of thoſe actions which are Criminal both in the Commandement and in the obedience, in the ſanction and in the execution, ſuch as are adultery, murder, treaſon, blaſphemy, and all the prevarications of the natural law, in all moral precepts, the tranſgreſſion of which can by no intention become legitimate. But in the poſitive and temporary laws of God which enjoyn no moral, natural rectitude, but ſimple and juſt obedience during the abode of that law, the ſubject, the ſon or the ſervant if he be commanded by his juſt ſuperior to an external miniſtery in the ſin of the ſuperior, if he conſents not to the ſin, and declares againſt it according as he can be requir'd, ſins not at all in the obedience. Thus when *Joab* and the Captains numbred the people againſt their wills upon the peremptory command of *David* their King, they had no part in the ſin, becauſe they explicitely diſſented all the way, and the execution and obedience did not implicitely and by interpretation involve them in it. The reaſon is, becauſe the act of numbring the people was of it ſelf innocent, and made criminal onely by *David*'s circumſtances; of which when they had advertis'd their King, and diſclaim'd the malice and irregularity, they intereſted themſelves in nothing but the material part: which when it can be ſeparated from the evil heart, as in this it was, and in all the like it may, the obedience is innocent, though the commandement be impious; and therefore *David* wholly takes the fault upon himſelf,

2 Sam. 24.

——*mea fraus omnis, nihil iſte nec auſus,*
Nec potuit.....

I have ſinn'd and done wickedly, but what have theſe ſheep done? * To this alſo is to be added, that even in the caſe of poſitive precepts our obedience muſt be wholly paſſive, and in no ſenſe active; that is, it muſt be wholly an act of obedience, without any promoting or advancing the ſin in him that commands, no way increaſing, or incouraging, or confirming the ſin or the ſinner.

2. Under this head is reduc'd *the praiſing of an action:* Which if it be done with a deſigne to promote it, is firſt a ſin in the approving it ſecretly, and is another ſin in ſetting it forward publicly. According to this is that ſaying of the *Arabians*, *Qui laudat obſcœnum perpetrat illud*, He that praiſes an unclean action is himſelf an unclean perſon. And therefore it was good Counſel,

Qualem

Qualem commendes etiam atque etiam aſpice... Horat.

for by our words we ſhall be judged: but, as *Saluſt* ſaid of *Cæſar* and *Cato*, *Alius aliâ viâ*, ſome one way, and ſome another get great names. *Cato* was famous for diſcountenancing, *Cæſar* for being a patron of evil men; but *Cato* was the better man: and upon this account *Pliny* commends one, *ornavit virtutes, inſectatus eſt vitia*, he adorned vertues with a fair character, but reproach'd vitious perſons: and he that by praiſes and diſpraiſes reſpectively does not diſtinguiſh vertue and vice cannot be a good man.

Ne laudet dignos, laudat Calliſtratus omnes. Martial.
Cui malus eſt nemo, quî bonus eſſe poteſt?

For in vain doe laws make a diſtinction between good and bad, if they be all blended in a common reward. *Malè pereas qui Gratias virgines, meretrices effeciſti*, ſaid *Democritus* to one that gave large gifts to all men alike. Concerning which it was excellently ſaid by *Maximus Tyrius*, *Qui largiuntur indignis ea quæ dignis conferenda eſſent, tria præſtant abſurda: Nam & ipſi jacturam faciunt, in bonos ſunt injurioſi, maloſque roborant ſegete ac materiâ vitiorum ſuppeditatâ.* To give to vice any of the treatments or rewards of vertue is a treble miſchief: The gift or reward is loſt, and injury is done to vertue, and evil men are incouraged in their evil courſes. Serm. 8. de Benef.

10. 3. *By conſent, ſilent and implicite, we are partakers of the fact of others: by not contradicting we are ſometimes adjudged willing.*

Of the main part of the propoſition there is no doubt, but that a conſenting to evil is a ſin; a conſenting to any action gives it as much authority, being and warranty as his conſent can effect: but the queſtion here is what are the ſignes of conſent when it is not expreſs'd, and when the man that is ſilent is juſtly preſumed willing. This inquiry is of uſe in the matter of preſumptive diſpenſations, and in the participation of good and evil actions and rewards. But it hath in it but little difficulty.

11. For 1. It is evident that then ſilence is an implicit conſent, when the ſuperior or the intereſted perſon, whoſe conſent can verify the act, and whoſe power can eaſily hinder it, and who is bound to hinder it if it be unlawfull, does yet hold his peace, and forbids it not. The reaſon of this is, becauſe every man is ſuppos'd to doe his duty, unleſſe the contrary be known: and therefore when a Prince ſees his ſubjects doing what the law forbids, and which he can eaſily hinder, it is to be preſum'd that he diſpenſes with them in that caſe, becauſe he knows that they will expound his ſilence to be a licenſe; and therefore he alſo intends it ſo, ſo long as he is ſilent, or elſe he does unreaſonably, and to no good purpoſe holds his peace.

12. But this is not true in thoſe things *which to their ſtabiliment or warranty require a poſitive act.* For ſometimes a ſilence is but an indifference and neutrality, according to that of the law, *Qui tacet non utique fatetur, ſed tamen verum eſt eum non negare*; He that holds his peace neither confeſſes nor denies: and in the Canon law, *Id in tua Eccleſia diſſimulare poteris, ita quod nec contradicere, nec tuum videaris præſtare aſſenſum*; The Biſhop's diſſembling or taking no notice in ſome caſes, is expounded neither to be a contradiction nor conſent: and the gloſſe *in cap. cum jamdudum de præben.* affirms, *Multa per patientiam tolerantur, quæ ſi deducta fuerint* l. 142. ff. de reg. jur. c. ſuper eo. de cognat. ſpiritual.

in judicium, exigente juſtitiâ non debent tolerari, Some things are patiently ſuffer'd, which if they were publicly complain'd of, ought not to be ſuffer'd. But theſe ſeeming antinomies are both very reaſonable in their own ſenſes, and therefore are eaſy to be reconcil'd.

13. For if the act about which the ſuperior is patient be conniv'd at, it is either becauſe for ſome reaſonable cauſe he pardons the Criminal; or elſe becauſe his patience is neceſſary and by conſtraint, he cannot help himſelf. For *no ſilence is eſteem'd a ratihabition of a paſt act:* becauſe when the thing is done without the leave of the ſuperior, his ſilence or ſpeaking cannot alter it, or legitimate the action if it was evil; at the moſt it does but pardon what is paſt, which is no allowance of any future action of the ſame nature. Indeed in the Court of Conſcience, ſuch a ſilence, or not reproving of a paſt fault, may be want of duty and diſcipline, and a criminal omiſſion of what we are oblig'd to; but hath no legal or natural cauſality upon that action which is paſt, and can be but an accidental cauſe or occaſion of a future.

14. But then ſilence is an interpretative conſent, when it is 1. a ſilence *of a thing obſerved*, and 2. *at preſent*, and 3. that *can be hindred:* and then indeed *in law* it is a great preſumption, but not always *in Conſcience*; becauſe it may proceed from *a neglect of duty* that the ſuperior takes no notice of the action, or from many other cauſes, as *puſillanimity*, *juſt fear*, or *weakneſſe*, which becauſe they cannot always be prov'd or obſerv'd, they may conclude *legally* from ſilence to conſent or diſpenſation: yet *the proceſſe of Conſcience* muſt be upon more wary grounds, and where there is ſo much fallibility in the preſumption, the conſcience muſt proceed to action upon more certain accounts, and muſt ſtrictly follow her rule, or muſt have greater cauſes to juſtify her liberty.

15. And therefore though the ſuperior be ſilent, and does obſerve the action, and can hinder me; yet I am not to preſume that he diſpenſes, or conſents, or gives me leave to goe beſides the law, unleſſe there be in the ſtate of my affairs a juſt cauſe of diſpenſation, and yet a reaſonable cauſe of hindring me from asking, or him from expreſſing his leave; then ſilence may be preſum'd to be leave, though the cauſe of diſpenſation be probable onely, and not very neceſſary.

16. In the reducing this to practice three cautions are to be attended.

1. When a ſubject proceeds to action upon the preſumption of leave, or a tacit diſpenſation, this preſumption or ſuppoſition muſt be made uſe of before the action be done, not afterwards. For it can never be honeſt to doe an act in hope to get leave afterwards; for untill the leave be actually given or reaſonably preſum'd, it is prohibited, and conſequently unlawfull; and if a diſpenſation were afterwards given and obtained, it were nothing but a pardon, which is ſo far from making the paſt action to be innocent, that it ſuppoſes it to be Criminal, for elſe there were no need of pardon. He that ſins in hope of pardon, fears nothing of the ſin but the ſmart, he thinks there is no evil but puniſhment; and therefore hath nothing towards vertue but the fear. If therefore before the action be undertaken the diſpenſation be not preſum'd, nothing that comes after can change the action.

2. This

17. 2. This presumption is not to be extended beyond that very action that is done in the presence, or within the notice and observation of the superior. For although it should be true that he does give tacit consent or leave to this particular, yet it follows not that therefore he does so to any or all of the same kind. For that may be just or tolerable once, which if repeated may be chang'd in circumstances, or become evil example, or of intolerable effect by the very repetition; or the mind of the superior may change, or the causes of dispensation may cease: and after all, since this dispensation wholly depends upon the consent of the superior, and this consent is then onely justly presum'd when he observes the action and forbids it not, the presumption is wholly at an end when he does not see it; and therefore a tacit consent or leave to an observed action can at no hand be extended to a consent or leave to others that are not observ'd by him.

18. 3. If the tacit dispensation be of such nature that it cannot give leave to a present observed action, but by introducing a faculty, or state, or potentiality of doing the like, then it is certain that if the present action be tacitly dispens'd withal or consented to, it may be extended to all of the like kind; but it is also as certain, that such a tacit consent is not so easily to be presum'd. The Bishop of *Bitonto* for his exercise was flinging of a leaden weight, and by chance kill'd his servant who unfortunately cross'd the way as the lead was irrecoverably passing from his hand, and for this misfortune in the chance of bloud is made irregular. Afterwards in the presence of his superior seeing a yong Turk dying who had express'd some inclinations to Christianity, baptizes him in the instant before his death, and was observ'd and conniv'd at by his superior, and therefore had a presumptive leave or dispensation for his irregularity. But because this single action could not have been dispens'd withall but by taking off his irregularity, it took away all that which could hinder his future doing his Episcopal office; and therefore he hath the same presumptive leave for the future actions which will not be observed, as for the present which was. But then the first presumption must be very reasonable and sure: for although a probable presumption may suffice to conclude for leave in a single present action whose effects determine with it self; yet if it have influence upon the future (as in the case before cited) it ought to be better consider'd, and more warily conducted by the superior, and therefore not readiy presumed by the subject. These are the measures of guessing at a consent by silence. There is also one way more of implicit or secret consent, viz.

19. 2. He does implicitely consent to an action, who consents or commands any thing to be done, from whence such an action or leave must necessarily follow: and the reason is, because he ought not to doe things repugnant to each other. He that makes it necessary for me to doe a thing, is the cause of my doing it, as much as if he commanded it. And this is more then a *tacit consent* or dispensation respectively, for it is a *virtual*. He that collates the order of Priesthood upon me, intends I should doe the whole office. *Princeps enim qui illi dignitatem dedit, omnia gerere decrevit*, saith the law. Thus he that dispenses in the irregularity, consents to all the actions which he does by virtue of the removing that impediment, who is so dispens'd with. Which proposition is onely so to be understood, when there is nothing wanting to the effecting such an action but the removing that impediment: but it is suppos'd that he that is dispens'd

l. quidam. ff. de re judic. & l. Barbarius. ff. de offic. prætor.

with, will uſe his liberty; and the diſpenſation if it be at all is directed ſo, and is in order to it. But if the ſuperior does an action which is not in order to an end, neither in order of nature or of intention, but yet it can be conſequent to it, that conſequent action is not to be imputed to him who did ſomething precedent, without which that action could not have been done. Thus if a Prince pardons a thief, or a friend begs his pardon that kill'd a man, although he could not have ſtoln any more without that pardon, yet that after-theft or murder is not imputable to him that gave or to him that beg'd the pardon, unleſſe they did it with that very intention; for the pardon is not in any natural order to any ſuch conſequent action, and therefore without his own actual or deſign'd conjunction and intuition, cannot convey the crime and guiltineſſe.

Queſtion.

20. Upon the occaſion of this, it is ſeaſonable to inquire *how far it may be lawfull, and can be innocent to permit a ſin.*

See Book 1. Chapt. 5. Rule 8. Numb. 17, 18.

The caſe is this. *Pancirone* an *Italian* Gentleman invites a *German* Embaſſador to dinner, feaſts him nobly, ſets before him plenty of delicious wine, enough to exhilarate him and all his company; but the *German* after his country faſhion thinks it no entertainment unleſſe he be drunk. The queſtion is whether *Pancirone* ſins in ſetting before him ſo much more as will fill the utmoſt capacity of his intemperance. Is it lawfull to ſuffer him to be drunk?

21. If this Queſtion had been ask'd in the Primitive Church, the anſwer would have been a reproof to the inquirer, as one who no better underſtood the laws of ſobriety and hoſpitality, and the meaſures of the Chriſtian feaſtings. *Poſidonius* tells of S. *Auſtin*, *Uſus eſt frugali menſâ & ſobriâ, quæ quidem inter olera & legumina etiam carnes aliquando propter hoſpites & quoſque inferiores continebat. Semper autem vinum habebat, quod tamen moderatiſſime bibebat, quia noverat & docebat, ut Apoſtolus dicit, quod omnis creatura Dei bona ſit, & nihil abjiciendum quod cum gratiarum actione percipitur.* He had that which was good and uſefull for himſelf according to his own meaſures, and ſomething better for ſtrangers. He always had wine, but it was drank very ſparingly; becauſe *every creature of God is good, if it be received with thankſgiving.* But if the gueſts be permitted to drink to drunkenneſſe, who ſhall ſay Amen at thy giving of thanks? or how ſhalt thou give thanks at the ſpoiling of the gifts of God? There is no peradventure but as a feaſt is the enlargement of our ordinary diet, ſo the entertainment of gueſts is a freer uſe of our liberty, ſo it be within the limits and capacities of ſobriety. But though the gueſts meal may be larger then our ordinary, yet we muſt ſecure our own duty more then we can ſecure theirs. When the *Greeks* whom *Lucullus* feaſted wondred why for their ſakes he ſhould be ſo large in his expences, he anſwer'd, *Nonnihil, O Hoſpites, veſtri cauſâ, ſed maxima pars Luculli gratiâ*, Something of this, O Gueſts, is for your ſakes, but the moſt of it is for my own magnificence. We ſhould take care to doe ſo, that though for our gueſts we doe ſomething more then ordinary, yet our greateſt care ſhould be for our ſelves, that we doe nothing that may misbecome the houſe of one of Chriſts ſervants. Would

Plutarch. in apoph. Rom.

Pancirone

Pancirone ſuffer the *German* Embaſſadour to lie with his women when he entertains him, and make his chambers a ſcene of luſt? Certainly he would eſteem it infinitely diſhoneſt, if to an honeſt family he ſhould offer ſo great an injury; and why may not his chambers miniſter to luſt, as well as his dining-room or cellars to beaſtly drunkenneſſe? and is it not as honorable that the family ſhould be accounted ſober, as to be eſteemed chaſt? or is not drunkenneſſe diſhoneſty as well as luſt? and why may not *Pancirone* as well bid his ſervants keep the door to wantonneſſe, as hold the chalice to beaſtly vomitings? In theſe things there is no other difference, but that as cloths, ſo vices alſo are in and out of faſhion as it happens. He that means to be a ſervant of God, muſt for himſelf and all his houſe take care that God be not there diſhonour'd. *I and my houſe will ſerve the Lord*, ſaid *Joſhuah*: and when God gave to the *Iſraelites* the law of the ſabbath, he gave it for themſelves and their families and *the ſtrangers within their gates.* * But ſo corrupt and degenerous are the manners of Chriſtians, that our feaſts are miniſteries of ſin, and every gueſt hath leave to command the houſe even when he cannot command himſelf: but this is not καὶ ἀναλογίαν πίστεως, the Chriſtian ſobriety hath other laws. Does any man when he relieves the poor at his gate give them leave to drink till they be drunk? and yet what they give to the poor is given for God's ſake: but when they miniſter to the rich man within, for whoſe ſake is that exceſſe given? If *Codrus* askes an almes, we refuſe him, if we ſuppoſe he will make himſelf drunk with it, and we think we are bound to refuſe him: & can it be lawfull to give to a gueſt within what it is unlawful to give to a gueſt without? If it be unlawful, it is certain it is not unavoidable: but if there be difficulty in declining it to ſome men, then beſides that which is principally intended by our Bleſſed Saviour, we ſee alſo there is very great reaſon in thoſe words, *When thou makeſt a feaſt, call not the rich, but call the poor:* Theſe will not tempt you to make them drunk, it may be the others will. If our Gueſt makes himſelf drunk with the uſual proviſions which muſt be indiſtinctly miniſtred at feaſts, that cannot be help'd, but by refuſing to receive ſuch perſons again to our Table: but he that knowingly and obſervingly eſpies the meeting turn to God's diſhonour, and does not put a limit to that ſea of drink, and place a ſhore and a ſtrand to the inundation, will find that God is departed from that meeting, and the pleaſing of his drunken gueſts will not make him recompence for the loſſe of ſuch an inhabitant. A man muſt at no hand conſent to his brothers ſin: and he that can and ought to hinder it, and does not, by interpretation does conſent. For he that gives a man a goblet of intemperance, with which he ſees him about to drown his ſoul, is juſt as innocent as he that lends him a knife to cut his own throat. But this is to be underſtood when the caſe is evident and notorious, for in the approaches and acceſſes to drunkenneſſe the matter is leſſe then in the lending of a knife, becauſe it is yet diſputable whether he will finiſh his intemperance: but if it be plain that drunkenneſſe is deſign'd, the caſe is all one; and if it be not perfectly deſign'd, yet as it ſteals on diſcernably, ſo the ſin of him that miniſters to the crime increaſes up to the ſame proportion of effect and guiltineſſe. Hoſpitality is one of the kinds of charity: and that is but an ill welcome which firſt procures a feaver, and it may be after it an irrevocable damnation.

3. He

22. 3. He that gives Counſel or aid to an action good or evil, conſents to it, and it is imputed to him as a product of his will and choice.

cap. ſi quis viduam. 50. diſtinct. c. 2. de cler. pug. in duello. c. ſicut dignum. 5. clericos. de homici.

This is expreſſely affirm'd by all laws Civil and Canon, and the Municipal laws of all thoſe Nations of which I have ſeen any records concerning this matter: and the interpreters univerſally conſent, with this *proviſo*, that the counſel be ſo much cauſe of the action, that without it it would not have been done. For if the action would have been done however, then he that counſels to it is guilty in Conſcience always; but unleſſe it be in great crimes, and *in deteſtationem facti*, it is not always puniſh'd in law. But if it were it would be very juſt, ſo that a difference were made in the degree of puniſhment: For he whoſe counſel is wholly author of the fact is guilty of more evil then he who onely addes hardneſſe to him who was reſolved upon the crime. But in the Court of Conſcience he ſtands guilty that gives evil counſel, whether the Criminal would have done it with or without his counſel: and therefore the laws doe very well alſo to puniſh evil counſellors.

Claudian. lib. 1. in Eutrop.

Quam bene diſpoſitum terris, ut dignus iniqui
Fructus conſilii primis authoribus inſtet?
Sic multos fluvio Vates arente per annos,
Hoſpite qui cæſo monuit placare Tonantem
Inventas primùm Buſyridis imbuit aras,
Et cecidit ſævi, quo dixerat, hoſtia ſacri.

So *Claudian*. The evil counſellor is firſt to feel the evil effect of his own pernicious counſel; that is, if his counſel perſuade to ſin, not if it prove infortunate: not but that even counſel that is given with purpoſe to doe a miſchief is highly to be puniſh'd not onely by the degree of the evil effect, but by the degree of the malice that advis'd it; but that thoſe events which were not foreſeen or deſign'd cannot be imputed to him that gave the beſt advice he could, but could not help it if he were deceiv'd in his judgment. But if the counſel be to a ſin or an unworthy action, there is no need to expect the event to make a judgement of the counſel.

23. The ſame alſo is affirm'd in the caſe of giving aides to an action good or bad; in which there is no variety, but of degrees onely: for when they are σὼν τι δὺ ἐρχόμενοι in combination, it is miſchief with a witneſſe.

Non caret effectu quod voluere duo.

It is an aggravation of the impiety when the zeal of malice is ſo potent, that it is greater then the power, and therefore calls in aide to ſecure the miſchief. But he that ſo aſſiſts, that he is the great effective cauſe of the evil which without his aide would not have been done at all, is intirely guilty.

Claud. ibid.

Sic opifex Tauri, tormentorumque repertor,
Qui funeſta novo fabricaverat æra dolori,
Primus inexpertum Siculo cogente Tyranno
Senſit opus, docuitque ſuum mugire juvencum.

Perillus invented and made witty inſtruments of cruelty, to invite *Phalaris* to a witty miſchief; but the Tyrant was juſt that once, and made him teach his own brazen bull to roar. * But if the aide doe but facilitate the work, the aſſiſtant is puniſhable according to the efficacy of his aide, in humane laws;

laws; but in Conſcience he is guilty according to the ſecret malice of the principle: and therefore when *Lucius Carpentus* kill'd *Nicanor*, his page that hated *Nicanor* mortally, and did nothing but thruſt his Maſters ſword further into his heart, to ſhew his ill will, though *Carpentus* had ſufficiently kill'd him, was as much a Murderer as his Maſter was. In humane laws there is great difference in theſe things.

1. For if many by joyn'd counſel ſet upon a man and kill him together, though one onely gave him a deadly wound, yet all are guilty of the murder, becauſe they all intended it, and did ſomething towards it.

2. But if in heat of bloud and by the ſurpriſe of paſſion this be done, he onely that gave the deadly wound is the homicide, and the reſt are injurious, and are puniſh'd accordingly.

3. If one give the deadly wound, and the other knock him on the head and ſo ſpeed him, they are both murderers alike.

4. If many ſtrike a man, and of all theſe wounds together he dies, they are equally guilty; for the law juſtly preſumes that their malice is equal, by their conjunct attempt, and there being nothing in the event to diſtinguiſh them, the preſumption is reaſonable and ought to paſſe into effect.

5. If the man be dead but with one wound, and it be not known which of the aſſiſtants did it, they are all alike accounted homicides; for every of them is juſtly ſuppos'd to have had malice enough to have done it, and which of them had the hap to doe it is not known; therefore there can be nothing to diſtinguiſh them in the puniſhment, becauſe the guilt is alike, and the event not diſcernably any ones peculiar. But although in external judicatories the proceedings are various, and conſidering there is no other way of judging what is ſecret and indiſtinguiſhable, this way is neceſſary and unavoidable of proceeding by the moſt reaſonable and probable methods of juſtice; yet in the Court of Conſcience there is a more certain proceeding, and the anſwer is regular, and one; according to the degree of the will and choice, and the tendency of our affections to the event, ſo we ſhall be judged: and therefore concerning this, our own conſcience is the onely meaſure of our expectations; and the will is the meaſure of reward. But theſe things onely two can know, the Spirit of God, and the ſpirit of a man; and that's enough to finiſh the proceſſe at the day of judgement.

Queſtion.

24. *Whether or no is the making and providing the inſtruments which uſually miniſter to ſin, by interpretation ſuch an aid to the ſin, as to involve our will and conſent to the ſin, and make us partakers of the guilt?*

To this I anſwer, firſt in general, that all thoſe arts and trades of life which miniſter onely to vanity and trifling pleaſures are of ill fame, ſuch as are Juglers, Tumblers, Players, Fencers and the like; it being an injunction of the Apoſtle that every Chriſtian ſhould labour with his hands τὸ ἀγαθὸν *that which is good*, that is, ſomething profitable to the Commonwealth, and acceptable to God: and to the ſame purpoſe it is that all that a Chriſtian does muſt be apt to be reckon'd amongſt one of theſe heads, τὰ ἀληθῆ, τὰ σεμνὰ, τὰ δίκαια, τὰ ἁγνὰ, τὰ προσφιλῆ, τὰ εὔφημα, *either the true or the honeſt, the juſt or the pure, the lovely or of good report*; and it will be hard to reduce ſome of thoſe trades to any of theſe heads. But I cannot ſee

Ephes. 4. 28.

Phil. 4. 8.

ſee reaſon enough to ſay that if any man ſins by the uſing of theſe arts, and their productions, that the artiſt is partaker of the crime; becauſe he deſigning onely to maintain himſelf, and to pleaſe the eyes and ears and youthfull paſſions of others, may poſſibly not communicate in their ſin, who over-act their liberty and their vanity. But becauſe ſuch perſons are not ſo wiſe or diſcerning as to be able to diſcern ſo nicely one formality from another, but deſire upon any termes to get as much money as they can, and that if they were ſo wiſe as to be able to diſcern the meaſures of their duty, they would imploy themſelves better, therefore in the whole ſuch perſons are to be reprov'd, though the arts themſelves might otherwiſe be tolerated. They are not unlawfull becauſe they are directly evil, but becauſe they doe but little or no good, ſuch as are jeſters, and buffoons, and juglers; at the beſt they are but *ματαιοτεχνία vain arts*, and if they be not directly puniſhable, they can have no reward at all. But *Alexander* did very well to a fellow who made it his trade and livelyhood to ſtand at diſtance and throw little peaſe in at the eye of a needle made on purpoſe juſt ſo big as would receive them: the fellow ſeeing the Prince admire his dexterous aime expected a great reward; and the Prince obſerving the fellows expectation, rewarded him with a whole Buſhel of peaſe. It was a reward worthy of ſuch an imployment. A man cannot be blam'd for having ſuch an art, but he that makes that to be his trade, cannot be otherwiſe then an idle perſon: and therefore although he may be tolerated in the Common-wealth where there live many perſons more idle and uſeleſſe then himſelf, and although, if other things were well, the man could not be directly condemn'd for this, and ſaid to be in a ſtate of damnation; yet becauſe if other things were well he would quickly imploy himſelf better, therefore ſuch perſons when they come near a ſpiritual guide are to be called off from that which at the beſt is good for nothing, and ſtands too near a ſin to be endur'd in the ſcrutinies after life eternal.

25. But ſome inquire whether the trade of Card-makers and Dice-makers be lawfull: and the reaſon of their doubt is, becauſe theſe things are us'd by the worſt of men, and to very vile purpoſes; to which theſe arts doe miniſter, and therefore are reaſonably ſuſpected as guilty of a participation of the conſequent crimes.

26. To which I anſwer, that ſome things miniſter to ſin immediately, others mediately onely and by the intervention of ſomething elſe; ſome miniſter to ſin inevitably and by their deſign and inſtitution, others by the fault of them that uſe them ill; and laſtly, ſome things miniſter to evil and to no good, others to good and evil promiſcuouſly. Theſe three diſtinctions make but one difference of things, but give ſeveral reaſons of that difference. Thoſe things which miniſter to ſin immediately, by their very nature and deſigne, and therefore miniſter to no good unleſſe it be accidentally and by the virtue of ſomething elſe nothing appertaining to them, are certainly unlawfull: and of this there is no queſtion, and that for all thoſe reaſons contain'd in their deſcription, *they are of evil*, and *they are evil*, and *they tend to evil*. But if they can miniſter to good, if they of themſelves are innocent, if they can be us'd without doing hurt, although they are generally abus'd, yet he that makes them in order onely to ſuch uſes to which of themſelves they can and ought to miniſter, partakes not of the ſin of them that abuſe the productions of his art and labour. And this is remarkable

markable in the caſe of pictures and images: concerning the making of which there was a great queſtion in the Primitive Church; but the caſe of Conſcience they thus determined: It was unlawfull to make pictures or images for heathen Temples, or for any uſe of religion: *imò tu colis, qui facis ut coli poſſint*; He that makes them that they may be worſhipped, is a worſhipper of them, that is, he partakes of his ſin that does worſhip. But becauſe the art ſtatuary and of painting might be us'd to better purpoſes, therefore they were advis'd to doe ſo, but to ſeparate them from all approaches toward religion; of which I have already given accounts out of *Tertullian De ſpectaculis c. 23.* And the ſame is the anſwer concerning the trades of making cards and dice. But although this be but an inſtance of this Rule; yet becauſe it relates to the practice of ſo great a part of mankind, it may deſerve to be conſidered alone in order to that relation and that practice. For it wholly depends upon this, If it be innocent, if it can be good to play at cards and dice, then the trade of making the inſtruments of playing is alſo innocent. If not, that which miniſters to nothing but ſin, muſt be of the kinred of ſin, and in the ſame condemnation.

See lib. 2. Chap. 2. Rule 6. Numb. 31.

Queſtion.

Whether it be lawfull to play at Cards or Dice.

27. S. *Chryſoſtome* affirms, *Non Deum inveniſſe ludum, ſed Diabolum, Not God, but the Devil* found out play.* It may be he alluded to that of [a] *Plato*, who ſaies that the ſpirit *Theuth* invented tables and dice; but then he ſaies that the ſame ſpirit found out Arithmetic, Geometry and Aſtronomy; and therefore from hence we can make no conjecture. S. [b] *Cyprian* ſaies that, *quidam ſtudio literarum bene eruditus, multum meditando hocmalum & perniciosum ſtudium adinvenit, inſtinctu ſolius Zabuli qui eum artibus ſuis repleverat. Hanc ergo artem oſtendit, quam & colendam ſculpturis cum ſua imagine fabricavit, Some very learn'd perſon inſpired and filled with the arts of the ſpirit* Zabulus *taught the art of dice and tables:* and he addes, *that he ſo order'd it, that no man might touch the tables till he had firſt ſacrific'd to* Zabulus. And therefore *M. Mantua* affirm'd it to be very unlawfull to play at *dice or tables*, upon this very reaſon; *Non tantum alea luſum crimen eſſe, ſed malorum dæmonum inventum*, It muſt needs be unlawfull when it is more then ſo, as being the very invention of the devil. And this fierce declamation hath prevail'd amongſt many wiſe men to the condemnation of it. *Vincentius* ſaies, *Manus Diaboli eſt ludus taxillorum:* and *Bodinus* is yet more particular, he tells us how; for, ſaies he, *in alea & fortuito illius jactu geomantiam artemque diabolicam ſitam eſſe, The chance and luck of it is a kind of geomancy or diabolical art.* Indeed if he had meant that the art of conducting the fall of the contingent die had been diabolical and a jugling art, he had ſpoken reaſon and truth: but that there is a diabolical art in the contingency and chance of it, is little better then a contradiction; unleſſe he could make it appear that the fall of the dice was by God committed to

Homil. 6. in Matth.

* *Quem Deum hujus mundi vocat Apoſtolus: quem Deum ſcil. hujuſmodi ludorum authorem indigitat Hieronymus.*
Vida Cremonenſis, Poeta non incelebris,
Mox verò gratum ludum mortalibus ipſe
Oſtendit Deus, & morem certaminis hujus.
Namque olim, ut perhibent, dilectam ſcacchida, quâ non
Inter Seriadas præſtantior altera Nymphas,
Compreſſit ripâ errantem, & nil tale putantem,
Dum paſcit niveos herboſa ad flumina olores.
Tum bicolorem buxum dedit, atque pudoris
Amiſſi pretium, vario ordine picturatam
Argentique auriquæ gravem tabulam addit, aſumque
Educit; Nymphæque etiam nunc ſervat honorem
Et Nomen Ludus, celebrat quem maxima Roma,
Extremæque hominum diverſa ad littora gentes.

[a] in Phædro.
[b] de aleatoribus

Serm. de S. Matthia.

lib. 1. de Dæmonol.

the Devils conduct: which truly is not very improbable in ſome caſes to be admitted; but becauſe it is uncertain, *Apherdianus* calls it diabolical or found out by the Devil, by reaſon of the craft us'd in it, and the evils conſequent to it.

Dæmonis inſtinctu ſibi quod reperêre maligni
Cum variis homines in ſua damna dolis.

And indeed this is almoſt the whole ſtate of the queſtion; for there are ſo many evils in the uſe of theſe ſports, they are made trades of fraud and livelyhood, they are accompanied ſo with drinking and ſwearing, they are ſo ſcandalous by blaſphemies and quarrels, ſo infamous by the miſpending our precious time, and the ruine of many families, they ſo often make wiſe men fools and ſlaves of paſſion, that we may ſay of them that uſe theſe inordinately,

Eurip.

Κακῶν πέλαγος εἰσορᾷ ω
Τοσοῦτον, ὡς μήποτ' ἐκνεῦσαι πάλιν,

they are in an ocean of miſchiefs, and can hardly ſwim to ſhore without periſhing. And therefore it is no wonder that holy men and wiſe Commonweaths, obſerving the great evil of them, and having not skill or experience enough to tell of any good that is in them, have forbidden them utterly.

lib. 1. Origin. c. 67. This is the obſervation of S. *Iſidore*; *Ab hac arte autem fraus & mendacium atque perjurium nunquam abeſt, poſtremo & odium & damna rerum. Unde & aliquando propter hæc ſcelera interdicta legibus fuit, Fraud and lying and perjury are the inſeparable attendants upon cards and dice, and hatred and great loſſes follow; and therefore becauſe of this appendant wickedneſſe, ſometimes theſe are wholly forbidden by the laws.*

28. For ſo we find it forbidden in the Civil laws of Princes and Republics. *M. Mantua* tells that by an old law of *Egypt*, every man was eaſily admitted to the accuſation of a gameſter or dice-player; and if he were convicted of it, he was condemned to the quarries: and *Joſephus Maſcardus* tells that thoſe who were remark'd as daily and common gameſters were infamous, and not admitted to give teſtimony in a cauſe of law. It is certain it was forbidden by the laws;

Polymath. l. 8. c. 3.

De prob. vol. 2. conc. 13. 6.

Horat.

Seu mavis vetitâ legibus aleâ.

The *lex Roſcia* puniſh'd thoſe perſons with baniſhment who loſt any conſiderable portions of their eſtates by playing at dice; and ſometimes the laws did condemn them that loſt money, to pay four times ſo much to the *Fiſcus*, as *Aſconius Pædianus* tells in his obſervations upon *Cicero*'s ſecond book *de Divinatione*. *Juſtinian* the Emperor made an expreſſe law againſt it, forbidding it both in public and private houſes. *Magnus Sforția* forbad dice and tables to be us'd in his campe: *Philippus Adeodatus* ſeverely prohibited it in the Commonwealth; ſo did *Charles* the ſeventh of *France*: For in the perpetual and daily abuſe of ſuch ſports the Commonwealth hath much incommodity, and conſequently many intereſts in the prohibition.

lib. 3. Cod. Juſtin. tit. 43. & in Authentic. tit. de Sacroſanctis Epiſcopis, §. interdicimus.

Horat. Ep. 1.

Ludus enim genuit trepidum certamen & iram;
Ira truces inimicitias & funebre bellum.

The public peace cannot be kept where public dicing-houſes are permitted, and therefore the *Romans* were ſo ſevere againſt ſuch public houſes and ſcenes of debauchery, that the *Prætor* ſaid, *Si quis eum apud quem aleâ luſum*

ſum eſſe dicetur, verberaverit, damnúmve ei dederit, ſive quid eo tempore domo ejus ſubtractum erit, judicium non dabo, If the Gentlemen beat the Maſter of ſuch gaming-houſes, or ſtole any thing from his houſe at that time, he ſhould have no remedy. For theſe were houſes of public hatred, and therefore outlawed. And therefore *Seneca* calls them *loca ædilem metuentia*, houſes afraid of the Magiſtrate. *Virtutem in Templo invenies, in foro, in Curia, pro muris ſtantem, pulverulentam, coloratam, callosas habentem manus; Voluptatem latitantem ſæpius ac tenebras captantem, circa balnea ac ſudatoria, ac loca ædilem metuentia, You may find Vertue ſtanding in Courts, and Temples, and upon the walls of a city, duſty and diſcolour'd, and with brawny hands; but Pleaſure ſneaks up and down to baths, and ſweating-houſes, and places that fear the preſence of the Ædile*; that is, gaming-houſes, which we learn from *Martial*,

ff. l. 11. tit. 5. de alcator. vide etiam Weſenbech. ibid.

de Vita beata c. 7.

Arcana modo raptus è popina
Ædilem rogat udus aleator,

The Dice-player half drunk newly ſnatcht from his Tavern or Ordinary beſeeches the Ædile for mercy. But in the Civil law the puniſhments of the Gameſters, and eſpecially the keepers of the gaming-houſes, by the confiſcation of the houſe, nay the deſtruction of it, that no man may dwell in it for ever, in that place where God hath been ſo many times diſhonour'd and blaſphem'd, are ſufficient indication of that juſt deteſtation in which the laws had them: and who pleaſe may ſee them largely deſcrib'd in [a] *Danæus* and [b] *Jodocus Damhouderius*. But I obſerve that the eſpecial remarks that the Civil laws of Princes and republics put upon this kind of gaming is that it cauſes many quarrels;

[a] de Alea. [b] praxis. p. 507. c. 126. & alibi.

——dum vitreo peraguntur milite bella:

the contention for the victory begets a more cruel war: but this is eſpecially upon the account of money which is then loſt, and which the laws moſt regard, as the cauſe of all the miſchief.

29. But when this queſtion and theſe obſervations fell into the hands of the Church, that is, of Chriſtian and pious Princes and Prelates, and they that were and ought to be zealous for ſouls had obſerv'd that God was exceedingly diſhonour'd, that his name was infinitely blaſphem'd, that much of that precious time which God had allowed to us for the working out our ſalvation with fear and trembling was ſpent in luxury, and ſwearing, and paſſion, and lying and curſing, and covetouſneſſe, and fraud, and quarrels, and intemperance of all ſorts, & that μέθαι and κῶμοι *drinking and gaming* are joyned ſo frequently that they are knit in a proverb, and that theſe together baffle the ſpirit of a man and drive away the ſpirit of God;

Aleáque & multo tempora quaſſa mero
Eripiunt omnes animo ſine vulnere vires,

Ovid. de remed.

they diſarme and weaken the mind of a man without a wound; it is, I ſay, no wonder that they forbad it ſo fiercely, and cenſur'd it ſo ſeverely. *Aleator quicunque es, Chriſtianum te dicis, quod non es*, ſaid S. *Cyprian*, A common gameſter or dice-player may call himſelf Chriſtian, but indeed he is not: and S. *Clemens Alexandrinus* ſaies, *inconſideratum luxuriæ amorem otioſis iſthæc aleæ oblectamina ſuppeditare, deſidiámque in cauſa eſſe*, idleneſſe and wantonneſſe provides theſe games for the lazy and uſeleſſe people of the world.

lib. de Aleatoribus.

de Chriſtian. milite. And therefore S. *Bernard* ſaid that *the pious and Chriſtian ſouldiers that inhabit* Jeruſalem, *aleas deteſtantur, mimos, & magos, & fabulatores, ſcurrileſque cantilenas, tanquam vanitates aut inſanias reſpuunt & abominantur; they hate dice, and abominate jeſters, and juglers, and players, and idle ſongs like vanities and madneſſe.* Upon theſe or the like accounts the Fathers of the Council of *Eliberis* ſeparated theſe gameſters from the Communion. *Si quis fidelis aleâ, id eſt, tabulâ luſerit, placuit eum abſtinere. Et ſi emendatus ceſſaverit poſt annum poterit reconciliari*; A Chriſtian playing at dice or tables is not to be admitted to the Holy Communion, but after a years penance and abſtention, and his total amendment: and the Canon law forbids a Clergy-man either to play at tables, or to be preſent at thoſe places where they doe. But the Capitular of *Charles* the Great joynes dicing and drunkenneſſe together, as being uſual companions, and forbids them both alike to Biſhops, Prieſts and Deacons. And indeed when the caſe is thus, I may ſay as *Schonæus* ſaid in the caſe of *Saul*,

Can. 79. Vide etiam can. 41, & 42. Apoſtol.

de vita & honeſtate Clericor. cap. Cleric. L. 6. c. 200.

——*quæ poteſt eſſe in tanti ſceleris*
Immanitate coercendâ crudelitas?

Vide etiam Decretum diſt. 35. c. 8. Epiſcop. & de exceſſu prælatorum, cap. inter dilectos.

No laws are too ſevere, no ſentence is too rigid for it's ſentence and condemnation.

30. But if the caſe can be otherwiſe, if playing at dice and tables can become an innocent recreation, then all theſe terrible and true ſentences will not reach them that ſo uſe it. And indeed even amongſt thoſe places and republics where ſuch gaming was ſo highly condemn'd & ſeverely puniſh'd, ſome of their braver men did uſe it, but without the vile appendages, and therefore without ſcandal and reproach. For firſt in general, it cannot misbecome a wiſe and a good man to unbend his bow, and to relaxe the ſeverities, the ſtrictures and more earneſt tendences of his mind.

Horat. l. 2. Sat. 1.

Quin ubi ſe à vulgo & ſcena in ſecreta remôrant
Virtus Scipiadæ & mitis ſapientia Læli,
Nugari cum illo, & diſcincti ludere, donec
Decoqueretur olus, ſoliti.——

Lælius and *Scipio* would play till they had digeſted their meal. And of *Archias* of *Tarentum* it was ſaid, Κεῖνος ἐν παισὶ γέρων, ὃν ἦ βελαῖς πρίσκος, He was an old and a wiſe man in public Counſels and imployments, but he would play like a yong man. And concerning very many wiſe Princes and Philoſophers you ſhall find many ſtories of their confident uſing lighter but innocent ſports for the refreſhment of their ſpirits tir'd with ſtudy and labour, collected by *Alexander ab Alexandro*. But in particular concerning dice and tables we find in *Valerius Maximus* related of *Q. Mucius*, *Aleæ quoque & calculis vacaſſe interdum dicitur, cum bene ac diu jura civium ac cæremonias deorum ordinaſſet: Ut enim in rebus ſeriis Scævolam, ita & in ſcurrilibus * luſibus hominem agebat*: that *ſometimes he would play at dice and tables, when he had firſt diſpatch'd the buſineſſe of the Commonwealth proſperouſly, and the affairs of religion wiſely: In ſerious things doing as Scævola ſhould, in his recreations doing as a man: quâ quidem aleâ Porcius Cato luſiſſe fertur animi laxandi cauſâ*, and *Porcius Cato* himſelf, wiſe and ſevere though he was, yet play'd at tables to refreſh and relaxe his mind. And if cards or tables have in their own nature nothing that is evil, provided it can be alſo ſeparated from all the evil appendages, from the crimes and from the reproach,

lib. 3. c. 21. l. 8. c. 8.

* *Janus Rutgerſius legit* [*in ſcitilibus*] *non* [*in ſcurrilibus*] *Pontanus* [*in ſcrotinis luſibus*] *Scriverius* [*inheroicis*] *alii* [*inſeriis*] *unico verbo.*

† Alex. ab Alex.

proach, from the danger and from the ſcandal, that which onely remains is, that they as well as other innocent recreations and divertiſements may be us'd. In the caſe ſo ſtated we ſuppoſe them onely to be recreations and relaxations of the mind: ἐγὼ γὰρ ὥμην τὴν παιδιὰν ἄνεσίν τε εἶναι τῆς ψυχῆς, καὶ ἀνάπαυσιν τῶν φροντίδων, ſaid *Julian*, ſuch little imployments are like the pauſes of muſic, they are *reſts* to the ſpirit and intervals of labour. And therefore *Johannes Sarisburienſis* allows of every game, *quæ abſque vitio curarum gravium pondus allevat, & ſine virtutis diſpendio jucundam interpolationem gaudiorum affert*, if it can eaſe our griefs, or alleviate our burdens without the loſſe of our innocence. in Cæſarib. Polycr. lib. 1. c. 5.

31. Now that cards and dice are of themſelves lawfull I doe not know any reaſon to doubt. For if they be unlawfull, it is becauſe they are forbidden, or becauſe there is in them ſomething that is forbidden. They are no where of themſelves forbidden: and what is in them that is criminal or ſuſpicious? Is it becauſe there is chance and contingency in them? There is ſo in all humane affairs; in Merchandiſe, in laying wagers, in all conſultations and warres, in journeys and agriculture, in teaching and learning, in putting children to ſchool or keeping them at home, in the price of the market, and the vendibility of commodities. And if it be ſaid that there is in all theſe things an overruling providence; though no man can tell in what manner or by what means the Divine providence brings ſuch things to a determinate event, yet it is certain that every little thing as well as every great thing is under God's government, and our recreations as well as our wagers. But what if it be and what if it be not? He can never be ſuſpected in any Criminal ſenſe to tempt the Divine providence, who by contingent things recreates his labour, and having acquir'd his refreſhment, hath no other end to ſerve, and no deſires to engage the Divine providence to any other purpoſe: and this end is ſufficiently ſecur'd by whatſoever happens. I know nothing elſe that can be pretended to render the nature of theſe things ſuſpicious; and this is perfectly nothing: and as for the evil appendages which are ſo frequently attending upon theſe kinds of games, beſides that they alſo are as near to other exerciſes as to theſe, as to bowling, horſe-racing, cock-fighting, the fight of quailes and of partridges, bulbaiting, pall-mall, billiards, and all other games for money and victory, to ſome more and to ſome leſſe, beſides this, I ſay, the evil appendages are all ſeparable from theſe games, and till they be ſeparated they are not lawfull: but they may be ſeparated by the following advices.

Rules of conducting our Sports and Recreations.

32. 1. Let no mans affections be immoderately addicted to them. And this requires a great diligence and caution. For as *Petrarch* ſaid well, *Hoc eſt in regno ſtultitiæ commune, ut quarum rerum minor eſt fructus, & cupiditas & delectatio major ſit*, In the kingdome of folly we are moſt pleaſed with thoſe things by which we have the leaſt profit. And the want of doing us good, is ſupplied by doing us pleaſure. But the moderation of our affections to our ſports is beſt expreſs'd, by uſing them according to thoſe meaſures which wiſe and ſevere men uſe in their recreations, that is, not to be frequent or long in them. For it is in theſe as in meat and drink, which are then good when they are neceſſary and uſefull to the purpoſes of our na-

ture and imployment. Sleep is neceſſary, and ſo long it is good: but a man muſt not therefore ſpend the beſt of his time in ſleep, but that time that is allowed to it, and without which he cannot well doe his buſineſſe. The limits of theſe things are not ſo ſtreight as *neceßity*, nor yet ſo large as *humor* or *deſire*; but as a man may drink to quench his thirſt, and he may yet drink more to refreſh his ſorrow, and to alleviate his ſpirits, and to eaſe his grief, provided that he turn not his liberty into a ſnare, ſo he may in his recreation and his ſports.

Phædrus. LIII

Cito rumpes arcum ſemper ſi tenſum habueris:
At ſi laxâris, cum voles, erit utilis.
Sic luſus animo debent aliquando dari,
Ad cogitandum melior ut redeat tibi.

Within this bound he muſt keep,* that he looſe none of his buſineſſe for his ſport; * that he make his other time more uſefull; * that this be the leſſe principal; * that it be taken as Phyſic, * or as wine at moſt: * and the minutes and little points of this meaſure are no otherwiſe to be weighed and conſider'd, but that we take thoſe proportions which our ſelves think we need to good purpoſes, or which we are adviſ'd to by a wiſe guide. To this purpoſe was that ſaying of *Plato* reported by *Laertius*; *Parum eſt aleâ ludere, at non parum eſt aſſueſcere*, *It is no great matter to play at dice or tables, but to be accuſtom'd to it is a great matter*; that is, to make it a portion of our buſineſſe, an expence of our time due to worthy imployments: and therefore in the laws, not the action it ſelf, but the abuſe, and particularly the frequency, is noted and forbidden. *Ludentes quotidie ad aleam, & tabernarum frequentatores inter infames habentur*, ſaies the conſtitution. *Quorum aut latrunculi, aut excoquendi in ſole corporis cura conſumpsêre vitam*, Men that ſpend their lives in cards and dice, and making much of themſelves, Haunters of drinking and gaming-houſes. A man may innocently and to good purpoſes goe to a Tavern; but they that frequent them have no excuſe, unleſſe their innocent buſineſſe does frequently ingage, and their ſevere religion bring them off ſafely. And ſo it is in theſe ſports, with this onely difference, that there can be no juſt cauſe to frequent theſe ſports: there is onely one cauſe of uſing them, and that comes but ſeldome, the refreſhment I mean of my ſelf or my friend, to which I miniſter in juſtice or in charity; but when our ſports come to that exceſſe that we long and ſeek for opportunities, when we tempt others, are weary of our buſineſſe, and not weary of our game,

Petrus Follerius. Senec. de Brevit. vitæ c. 13.

... Cum mediæ nequeant te frangere noctes,
Nec tua ſit talos mittere laſſa manus,

when we ſit up till midnight, and ſpend half days, and that often too; then we have ſpoil'd the ſport, it is not a recreation but a ſinne.

33. 2. He that means to make his games lawfull muſt not play for money, but for refreſhment. This, though (it may be) few will believe, yet it is the moſt conſiderable thing to be amended in the games of civil and ſober perſons. For the gaining of money can have no influence into the game to make it the more recreative, unleſſe covetouſneſſe hold the box. The recreation is to divert the mind or body from labours by attending to ſomething that pleaſes and gives no trouble; now this is in the conduct of your game, in the managing a proſperous chance to advantage, and removing the unpro-

unproſperous from detriment and loſſe of victory, ſo to croſſe the proverb,

Πέπωκεν ἕξω κακῶν ὁ Χίος. ἀλλὰ Κῶος,

and that by wit he may relieve his adverſe chance, and by a ſymbol learn to make good and vertuous uſe of every croſſe accident. But when money is at ſtake, either the ſumme is trifling, or it is conſiderable. If trifling, it can be of no purpoſe unleſſe to ſerve the ends of ſome little hoſpitable entertainment or love-feaſt, and then there is nothing amiſſe; but if it be conſiderable, there is a wide door open to temptation, and a man cannot be indifferent to winne or looſe a great ſumme of money, though he can eaſily pretend it. If a man be willing or indifferent to looſe his own money, and not at all deſirous to get anothers, to what purpoſe is it that he playes for it? if he be not indifferent, then he is covetous, or he is a fool; he covets that which is not his own, or unreaſonably ventures that which is. If without the money he cannot mind his game, then the game is no divertiſement, no recreation, but the money is all the ſport, and therefore covetouſneſſe is all the deſigne: but if he can be recreated by the game alone, the money does but change it from lawfull to unlawfull, and the man from being weary to become covetous, and from the trouble of labour or ſtudy remove him to the worſe trouble of fear and anger and impatient deſires. But here indeed begins the miſchief, here men begin for the money to uſe vile arts,

Quærit compoſitos manus improba mittere talos,

here cards and dice begin to be a diabolical art, and men are witty to undoe or defraud one another,

..... Neque enim loculis comitantibus itur
Ad caſum tabulæ, poſitâ ſed luditur arcâ.

Men venture their eſtates at it, and make their families ſad and poor, becauſe the dice turn up an unlucky chance: and what ſport is it for me to looſe my money if it be at all valuable? and if it be not, what is it to my game? But ſure the pleaſure is in winning the money. That is it certainly. But

Hoccine credibile eſt aut memorabile, Terent. Andria.
Tanta vecordia innata cuiquam ut ſiet
Ut malis gaudeant, atque ex incommodis
Alterius ſua comparent ut commoda? ah!
Idne eſt verum? Imo id genus hominum
Eſt peſſimum .....

Nothing is more baſe then to get advantages by the loſſe of others; they that doe ſo, and make the loſſe of their neighbour their game & paſtime, are the worſt of men, ſaid the Comedy. But concerning the loſſe of our money, let a man pretend what he pleaſe, that he plaies for no more then he is willing to looſe; it is certain, he is not to be believ'd: for if that ſumme be ſo indifferent to him, why is not he eaſy to be tempted to give ſuch a ſumme to the poor? to give that ſumme? his ſport will not be the leſſe if that be all he deſignes. *Poſitâ dum luditur arcâ, ſtat pauper nudus atque eſuriens ante fores, Chriſtuſque in paupere moritur,* Whileſt men play for great ſummes of money, a poor man at the door, redeem'd by the bloud of Chriſt, wants a ſhilling, and begs it for Chriſts ſake, and goes without it. S. Hieron. ep. ad Gaudent.

Whenever the caſe is this or like this, he ſins that plays at cards or dice or any other game for money. It is alike in all games, for I know no difference; Money is the way to abuſe them all: and cards and dice, if there be no money at ſtake, will make as good ſport and pleaſe the mind as well as any the ſports of boys, and are as innocent as puſh-pin. For if we conſider it rightly, from hence is taken the great objection againſt cards and tables, becauſe men at theſe venture their money, and expoſe their money to hazard for no good end, and therefore tempt God; and certainly to doe ſo is unlawfull, and that for the reaſon alleged: but when we play onely for recreation, we expoſe nothing of conſiderable intereſt to hazard, and therefore it cannot be a criminal tempting of God, as it is in gaming for money,

Plaut. Perſa. *Ubi centuplex murus rebus ſervandis parum eſt,*

where no wit, no obſervation, no caution, can ſave our ſtake: for

Adverſis punctis doctum ſe nemo fatetur;
Vulnera plus creſcunt punctis quam bella ſagittis,

ſaies the Epigram, No man is crafty enough to play againſt an ill hand; and therefore to put a conſiderable intereſt, to the hazard of the ruine of a family, or at leaſt more then we find in our hearts to give to Chriſt, is a great tempting of God. And in theſe caſes, as I have heard from them that have skill in ſuch things, there are ſuch ſtrange chances, ſuch promoting of a hand by fancy and little arts of Geomancy, ſuch conſtant winning on one ſide, ſuch unreaſonable loſſes on the other, and theſe ſtrange contingencies produce ſuch horrible effects, that it is not improbable that God hath permitted the conduct of ſuch games of chance to the Devil, who will order them ſo where he can doe moſt miſchief; but without the inſtrumentality of money he could doe nothing at all.

34. There are two little caſes pretended to leſſen this evil, and bring it from unlawfull to lawfull. The one is, that when a man hath loſt his money, he deſires to play on for no other reaſon but to recover his own: the queſtion is whether that be lawfull or no. To this I can give no direct anſwer, for no man can *at firſt* tell whether it be or no: but at the beſt it is very ſuſpicious, for it engages him upon more loſſe of time, and he tempts God in a further hazard, and gives himſelf the lie by making it appear that, whatever he pretended, he did play for more then he was willing to looſe.

Ovid. *Sic ne perdiderit, non ceſſat perdere luſor,*
Et revocat cupidas alea ſæpe manus.

He plays on that he may give over, and looſes more that he may not looſe ſo much, and is vexed with covetouſneſſe, and chides his fortune, and reproves he knows not what: ſo that *by this time* I can tell whether he ſinn'd or no; for though it was hard to ſay whether he did well or ill to deſire the recovery of his money, yet when we ſee upon what termes it is deſign'd and acted, the queſtion is very eaſy to be reſolved, and the man had better ſit down with that loſſe then venture a greater, and commit more ſins.

35. The other caſe is this; If I can without covetouſneſſe of the money play, is it then lawfull? and to ſhew that I am not covetous, I will give the money I win to the ſtanders by, or to my ſervants, or to the poor. When *Theodoric* King of the *Goths* did win at dice or tables he was very bountifull to

to his ſervants, and being over-pleas'd with his own good fortune, would grant them any thing. But *Auguſtus Cæſar* did uſe to doe this thing bravely. He gives this account of himſelf in a letter of his to *Tiberius*; *Ego perdidi viginti millia nummûm meo nomine: ſed cum effusè in luſu liberalis fuiſſem, ut ſoleo plerumque. Nam ſi quas manus remiſi cuique exegiſſem, aut retinuiſſem quod cuique donavi, viciſſem vèl quinquaginta millia: ſed hoc malo. Benignitas enim mea me ad cæleſtem gloriam efferet.* He loſt (ſuppoſe) 20000 Crowns; but it was not his ill fortune or his ill conduct, but his exceſſive liberality: he forgave to many what he had wone, and other ſummes which he took, he gave to the ſtanders by, and choſe this bounty as the way to immortality. Now it is true this is a fair indication that covetouſneſſe is not the prevailing ingredient; but to him that conſiders it wiſely it will appear to be but a ſplendid nothing. For what kind of ſport is that to bring it into my power to oblige my play-fellow with his own money? and what bounty is that by which I reward my friends and ſervants with another mans eſtate? *Paryſatis* did it yet more innocently, when playing with her yong ſon *Artaxerxes*, ſhe on purpoſe loſt a thouſand Darics at a throw, to help the yong Prince to money. Thus far it was well enough; for I doubt not but it is as lawfull to looſe my money as to give it away, if there be nothing elſe in it: but beſides that it is not ſo honourable, it may be, he that plays againſt me is not of my mind, or of my ability, and I correſpond to him in an action in which he is not ſo innocent as I ſhould be, if I did not ſomething miniſter to his evil: ſo that though I play that I may oblige him, yet there are ſo many circumſtances requir'd to keep my ſelf and him innocent, that *it is a thouſand times better in ſome caſes to give him ſomething, and in all caſes to play for nothing.* apud Sueton.

36. 3. For it is a worthy inquiry, if we ask whether it be lawfull for a man to poſſeſſe what he gaines by play. For if it be unlawfull, then when he hath wone he hath got nothing, but is bound to make reſtitution, and cannot give almes of that; and then it can be good for nothing, but on all ſides pierces his hand that holds it like a handfull of thorns. But in anſwer to this queſtion, if I ſhall ſpeak what I think, I am like to prevail but little, becauſe the whole world practiſes the contrary;

> ..... *Et nunc in hacce publica*
> *Contage morum, congreges inter malos*
> *Malum eſſe jus eſt. Nam nunc*
> *Leges nihil faciunt quod licet, niſi quod lubet,*

Nothing prevails but evil manners and evil propoſitions: and in ſuch things as theſe it is eaſy to confute a good counſel or a ſevere reproof, by ſaying, The man is angry, or too ſtrict, and all men are not of his mind. Therefore in this inquiry I ſhall onely tell what I have learn'd in the ſchools of wiſedome, in the laws of wiſe people, and the ſayings of holy men. In the Civil laws of the *Romans*, all the money that theſe gameſters wone was taken from them and ſpent upon public works; and he that loſt and paid the money was puniſhable, for the Senate forbad to play for money, or to make any promiſe or give any pledge for payment. The ſame hath been forbidden by the laws of many republics, *ut quod ille in alea perdiderat, beneficio legis diſſolveret*, that the law ſhould pay what the fool and the prodigal had loſt. An old Epigrammatiſt affirmes that ſuch gains will never thrive, lib. 3. Cod. tit. 43. Vide ibi Cujacium, & Weſenbech. ff. l. 11. tit. 5. Cicer. ad Atticum, Ep. 1. l. 1.

Per

Per ſcelus immenſas quid opes cumulare juvabit?
Turpiter è manibus res malè partà fluit.

And no wonder if ſuch gains be the purchaces of a thief, and no better then robbery. *Ariſtotle* joyns them together in the ſame kind of diſhonourable crime, Ὁ μὲν τοι κυβδυτὴς, καὶ ὁ λωποδύτης, καὶ ὁ λῃστὴς τῶν ἀνελευθέρων εἰσίν· ἀἰσχεροκερδεῖς γάρ, He that plays at dice for money, and the thief are illiberal gameſters, for they are guilty of *filthy lucre*: and *Seneca* ſays,

lib. 4. Ethic. c. 1.

——immenſas opes
Jampridem avaris manibus, ut perdat, rapit.

He is greedy, and gets nothing; he wins much, and looſes more; he ſnatches from his neighbour what belongs to him, and looſes that and his own beſide. *Paſcaſius Juſtus* obſerves that the *Spaniards* call ſuch gameſters *Tahur*, which is the *Metatheſis* of *Hurta*, a thief; for to caſt the dice for money what is it but to deſire to take another mans money againſt his will? and that is theft. S. *Bonaventure* ſaies that which is gotten by play is poſſeſs'd by no good title, and cannot be lawfully retain'd: he that loſt it, hath indeed for his folly deſerv'd to looſe it; but he that hath it, does not deſerve to keep it, and therefore he muſt not, nor yet muſt he reſtore it to him that loſt it, unleſſe he perſuaded or compell'd him to play; but therefore the money is to be given to the poor: and the ſame alſo is expreſſely affirmed by S. *Auſtin*. Now if it be not lawfull to retain ſuch purchaces, they are not our own when we have wone them, and therefore it is no thanks to us if we give them away. *Aleatoris eleemoſyna invalida eſt & nihili apud Deum*, ſaith S. *Bonaventure*. *Oblatio enim de rapina reprobatur*, ſaith the Canon law, and *eleemoſynæ & ſacrificium non placent Deo quæ offeruntur ex ſcelere*. The money is gotten by an equivocal contract, and an indirect rapine, and therefore can never become a pleaſing ſacrifice to God; it is a giving our goods to the poor without charity, and that profits not, ſaith S. *Paul*. But at laſt, although he that looſes his money, deſerves to looſe it; yet becauſe by laws ſuch purchaces and acquiſitions are forbidden, and we have no right to give almes of what is not our own, and as God will not accept it when it is done by us, ſo he hath no where commanded that it ſhould be done at all, therefore it is certain that all ſuch money is to be reſtor'd, if the looſer pleaſe. *Bona aleâ amiſſa tanquam furto ablata* [*veteres*] *reſtituenda putabant*. S. *Auſtin* ſaid, that the Ancients did affirm, money wone by dice and tables ought to be reſtor'd, like the money that was ſtollen. But if the owner will not, let it aſcend to pious uſes. And if this be the ſtate of this affair, it cannot be lawfull to play at cards or dice for money. For the love of money is the root of all evil, which ſome having coveted, have pierced themſelves through with many ſorrows. And this appears yet more in the next advice.

Specul. anim. c. 2. & in Sent. lib. 1. diſt. 25. part. 2. art. 2. q. 1. in concluſ. ad 4.

Epiſt. 54. ad Macedon.

ibid.

1 Cor. 13.

ubi ſuprà.

37. 3. No man can play lawfully at ſuch games but thoſe who are diſpaſſionate, and of ſober ſpirits, under the command of reaſon and religion; and therefore to play for money will be quickly criminal, for

Juven. ſat. 13.

Ploratur lachrymis amiſſa pecunia veris;
Et majore domus gemitu, majore tumultu
Planguntur nummi quam funera.

Men may weep ſolemnly for the dead, but they will be heartily troubled when

when their money is departed; and therefore there is but little ſport in ſuch games. And this *Alexander* the Great rightly obſerv'd, when he ſet a fine upon ſome friends of his, *quod in ludo aleæ ſenſiſſet eos non ludere, ſed velut in re maximè ſeria verſari, fortunas ſuas omnes aleæ permittentes arbitrio,* becauſe they did not play at dice, but contend as in a matter of greateſt concernment. And certainly ſo it is. For doe not all the nations of the world think the defence of their money and eſtates a juſt cauſe of taking up armes and venturing their lives? He that plays at games of fortune ſhould put nothing to fortunes conduct, but what he can perfectly ſubject to reaſon every minute. *Seneca* tells that *Julius Canus* was playing at tables, when the Centurion being ſent upon a deſperate ſervice, and went out leading *agmen hominum perituroruм* a troup of men to death, hapned to call him out to march in that ſervice. *Julius Canus* knew the danger well enough, but being ſummon'd, call'd to his play-fellow to tell the men upon the tables; and now, ſaies he, doe not ſay when I am dead that you had the better of the game; and deſir'd the Centurion to bear him witneſſe that he had one man more then the other. He that is thus even and ſerene may fairly play; but he that would be ſo, muſt not venture conſiderable portions of his eſtate, nor any thing, the loſſe of which diſpleaſes him and ſhakes him into paſſion. Not that every diſpleaſure, though for a trifle, is criminal; but that every degree of it tends to evil, and the uſe of it is not ſafe, and the effect may be intolerable. Plutarch. in Reg. & Imper. apoph.

Ludit cum multis Vatanas, ſed ludere neſcit:
Et putat imperio currere puncta ſuo.

If the chances will not run as we would have them, or if our paſſions will not, then it is at no hand ſafe to play; unleſſe to fret, and vex ſecretly for trifles, to ſwear and lie, to blaſpheme and curſe, to cheat and forſwear, to covet and to hate can be innocent.

38. 4. Upon theſe accounts it is that wiſe men adviſe that yong men be at no hand permitted to play at dice or the like games. *Ab iſto luſu arcendi ſunt pueri, tum propter pecunias quas perdunt, tum propter vitia quæ colligunt, & mores pravos quos inde addiſcunt:* Yong men and boys looſe their money and learn evil manners at ſuch games, they have great paſſions, fierce deſires and quick angers, and their flames are ſtirr'd perpetually with chance. It is a ſad ſtory that is told of the yong Prince, the onely ſon of *Claudius* the Emperor, who when he had loſt all his money at dice, and had tir'd out all his invention for the getting more, and could not doe it fairly, being impatient of his loſſe, and deſirous of new hopes and ventures, he ſtole a rich jewel from his Fathers cloſet, the Princes Tutor knowing and concealing the theft. But it came to the Emperors ear, and produc'd this tragedy. He diſinherited his ſon, he baniſhed all the Princes play-fellows, and put the Tutor to death. Yong men are not to be truſted to play with ſuch aſpics. And therefore *Sidonius* ſaies, *Alea eſt oblectamentum ſenum, ut pila juvenum*, Tables for old men, and the Ball for yong men. *Cato* allows to yong men, armes, horſes and bows, and ſuch like ſports; but would have dice and tables permitted to old men, whoſe minds are more to be refreſhed with diverſion then their bodies by laborious exerciſe. And in alluſion to this, *Auguſtus* in his letter to *Tiberius* mention'd by *Suetonius* hath theſe words, *Inter cænam luſimus γερντικῶς & heri & hodie*, Yeſterday and to day we plai'd like old men; that is, at tables. But this is matter of prudence, Anton. Gueva-ra. horol. Princ. per Anton. Guevara.

dence, and not of Conſcience; ſave onely that old men are more maſters of reaſon and rulers of their paſſion, and a ſedentary exerciſe being fitteſt for them, they who cannot but remember that they are every day dying, though poſſibly they need ſome divertiſement to their buſied and weary ſpirits, yet they doe more need to remember their later end, and take care to redeem their time, and above all things not to play for any conſiderable money, not for any money the loſſe whereof is bigger then a jeſt: and they that doe thus, will not eaſily doe amiſſe. But better then all theſe permiſſions is that reſolution of *Cicero*, *Quantum alii tribuunt intempeſtivis conviviis, quantum denique aleæ, quantum pilæ, tantum mihi egomet ad hæc ſtudia recolenda ſumpſero*, What time other men ſpend in feaſting and revellings, in dice and gaming, all that I ſpend in my ſtudies: and that is very well. For though there is good charity in preſerving our health, yet there is a greater neceſſity upon us that we doe not looſe our time.

orat. pro Archia Poet.

39. 5. That our games may be innocent, we muſt take care they be not ſcandalous, that is, not with evil company, not with ſuſpicious company. *Ciceroni nequiſſimorum hominum in ludo talario conſeſſus?* ſhall *Cicero* ſuffer baſe perſons to ſit and play at tables in his houſe? That's not well: and therefore he objected it as a great crime to *Marc Anthony*, *domum ejus plenam ebriorum aleatorumque*, his houſe was frequented with gameſters and drunkards. We muſt neither doe evil, nor ſeem to doe evil: We muſt not converſe with evil perſons, nor uſe our liberty to our brothers prejudice or grief: we muſt not doe any thing which he with probability or with innocent weakneſſe thinks to be amiſſe, untill he be inſtructed rightly; and if he be, yet if he will be an adverſary and apt to take opportunities to reproach you, we muſt give him no occaſion. In theſe caſes, it is fit we abſtain: where nothing of theſe things does intervene, and nothing of the former evils is appendant, we may uſe our liberty with reaſon and ſobriety. * And then, if this liberty can be ſo us'd, and ſuch recreations can be innocent, there is no further queſtion, but thoſe trades which miniſter to theſe divertiſements are innocent and lawfull.

ad Attic. ep. 13. l. 1.

in 2ª Philippic.

Rule III.

The act of the Will alone, although no external action or event doe follow, is imputed to good or evil by God and men.

1. THe will of man in the production and perfecting of a ſin hath ſix ſteps or degrees of volition, in all which the ſin is actual, excepting the firſt onely. 1. The inclination of the will is the firſt; and *that* ſo far as it is natural, ſo far it is innocent. Sin oftentimes enters in at that door, but the door was plac'd there in the firſt creation; it was a part of that building which *God made and not man*, and in which every ſtone and ſtick was good. It was not made for ſin, but for vertue; but it was made ſo, that if we would bring ſin in that way, it was in our choice, and at our perill. But although this be the caſe of our natural inclination, yet if our inclinations be acquir'd,

acquir'd, or increas'd, or habitual, that is, if they become facilities and promptitudes to ſin, they are not innocent: for this ſtate is a ſtate of ſin and death, it is the effect of many vile actions and vile deſires, it is an averſion from and an enmity againſt God; it is a bed of deſires which are ſometimes aſleep, and then doe no more miſchief then a ſleeping wolfe, but when they are awake they doe all the evil they can. And therefore the caſe of an habitual ſinner is ſuch, that even his firſt inclinations to any forbidden action in the inſtance of his own habit are criminal as the external effect. But in natural inclinations the caſe is different. 2. The firſt beginning of the ſin is when the will ſtops and arreſts it ſelf upon the tempting object, and conſents onely ſo far that it will have it conſider'd and diſputed. Then the will is come too far, not when it is willing a thing ſhould be diſputed whether it be lawfull or unlawfull, good or evil; but when it is willing it be conſidered which is to be followed, Reaſon or Senſe, wiſe counſels or ſenſual pleaſures: for when the will is gone ſo far it is paſt beyond what is natural, and come ſo far towards choice and guiltineſſe, that it is yet no more friend to vertue then to vice, and knows not which to chuſe. 3. The next ſtep the will makes is when it is pleas'd with the thought of it, and taſts the honey with the top of a rod, a little phantaſtic pleaſure before-hand in the meditation of the ſin. This prelibation is but the antepaſt of the action, and as the twilight to the dark night, it is too near an approach to a deed of darkneſſe. 4. When the will is gone thus far and is beyond the white lines of innocence, the next ſtep towards a perfect ſin is a deſire to doe the action; not clearly and diſtinctly, but upon certain conditions, if it were lawfull, and if it were convenient, and if it were not for ſomething that lies croſſe in the way. Here our love to vertue is loſt, onely fear and God's reſtraining grace remains ſtill for the revocation of the man to wiſedome and ſecurity. 5. But when this obſtacle is remov'd, and that the heart conſents to the ſin, then the Spirit is departed, and then there remains nothing but that the ſin be [6] contriv'd within, and [7.] committed to the faculties and members to goe about their new and unhappy imployment; and then both the outward and the inward man have combin'd and made up the body of a ſin. But the ſin begins within, and the guilt is contracted by what is done at home, by that which is in our own power, by that which nothing from without can hinder. For as for the external act, God for ends of his own providence does often hinder it; and yet he that fain would, but cannot bring his evil purpoſes to paſſe, is not at all excuſed, or the leſſe a Criminal before God.

Vide Unum neceſſar. cap. 5. of Habitual ſins.

Queſtion.

2. *But is it not a mercy for a man to be recalled from acting his adultery? is it not charity to two perſons to keep* Autolycus *from killing the ſteward of* Stratocles? and if ſo, then there is ſin in the action as well as in the affection, and the hand ſins diſtinctly from the heart: but then it will be found untrue to ſay that all our good and evil comes from the will and choice, and yet it will not be poſſible to tell from what principle the evil of the hand is derived, if not from the evil will. This brings a neceſſity of inquiring into the union, or difference of the actions internal and external, and the influence the will hath upon the external act, and whether it can have any aggravation or degree beyond what it receives from the inward principle.

3. To this therefore I anſwer, That all the morality of any action depends wholly on the will, and is ſeated in the inner man; and the eye is not adulterous, but it is the inſtrument of an adulterous heart; and the hand is not the thief before God, but the covetous deſire is guilty: and this appears in this, becauſe if a man takes the goods of his neighbour, which he would not have taken if he had ſuppos'd they had been his neighbours, he is innocent before God. And yet it cannot be denied but it is worſe to ſteal then to covet, it is worſe to humble and diſhonour our neighbours wife then to luſt after her. But the reaſon is, becauſe the doing of the action ſuppoſes a great many precedent acts of luſt, even the whole method and œconomy of ſin: for every act of the will, every degree of deſire is luſting or covetouſneſſe; and the external act which ſuppoſes them all, is worſe then all them except the laſt. The natural inclination of the will is but a capacity or readineſſe and diſpoſition of the faculty, and is no act. But the arreſt and ſtop of the will, the delight in fancying, the deſire of action, the conſent of the heart, and the deliberation and reſolution, theſe are the acts and products of the will; and the ſecond is worſe then the firſt, and the third worſe then the ſecond, and ſo till we come to the immediate addreſſe to the action: but that action is not worſe then the laſt reſolution and deliberate purpoſe of the will; and therefore when it is charity to hinder the man from acting his luſt, it is therefore charity, becauſe in the acting of the ſin externally there are more acts of the will, even the whole method of death is completed, and the ſame acts of will are repeated, or confirm'd, and there is miſchief done to *ſome perſon* or to *ſome intereſt*, to *ſomething* beſides the ſinning man, and there are ſome contingencies and ſome circumſtances to which new actions of the will muſt be conſenting and give their influence and renew their acts: but ſtill, if we compare every conſent and deliberate purpoſe of the will with the action, or that part of the action which is immediately produc'd in it, there is in that event no morality, and no good, and no evil but what is firſt within. So that he who hinders a man from acting of his luſt, does hinder him not from ſins diſtinct from thoſe of his will, but from more ſins of the will, from repetition, or confirmation, or abiding in the ſame choſen folly.

4. Upon this account it will be eaſy to anſwer whether is the greater ſin, the wiſhing and deſiring a very great evil, and willingly doing but a little one, or the doing a very great evil and an intolerable miſchief with a little malice. For it is certain that the ſin is much more increas'd by the malice of the action and effect then by the malice of the will, if the malice of the will be little, and the evil of the event be great and intolerable. For at firſt to deſire a very great miſchief, and then to act but a little one, ſuppoſes that the great malice went not to it's utmoſt period; it was deſir'd, but not reſolved on, and deliberately determin'd: and then that malice though in it ſelf great, yet it was ineffective, and was retracted before it was conſummate by the will, and acted by her ſubjects the other faculties and members. But now, if a great miſchief be done by a little malice, to that little malice all that event is to be imputed: though not to it alone, yet to that malice manag'd by ignorance, careleſſeneſſe and folly; which being no excuſes, but of themſelves criminal appendages, the man ſhall be judged by his action, not by his ignorant and imperfect choice; becauſe though the choice was naturally imperfect, yet morally and in the whole conjunction of it's circumſtances it was completely Criminal. If this thing happens to be

be otherwiſe in any particular, God will diſcern it, and not man; for the greatneſſe of the miſchief in humane laws and accounts ſuppoſes the greatneſſe of the malice, if malice at all, and not chance wholly was the principle. But if the queſtion be in the acting of a great miſchief where the ſin moſt lies, in the will or in the event, I ſay it is originally in the will; and it is equally in the event, if all that event was foreſeen and known, although it was not principally or at all deſign'd. He that ſteales a cow from a widow, and does verily believe that the loſſe of her cow will not onely undoe her, but break her heart, though he does not deſigne this, yet becauſe he knows it, all that event is to be imputed to him. They that abuſe their own bodies by abominable and unclean contacts, & the ſin of *Onan*, though they deſign onely the pleaſing of their luſt, yet if they conſider what they doe, and what will be the event, they ſecondarily chuſe all that event, and are as guilty of it as of that which they principally deſign'd.

——quòd pellice lævâ Mart. Ep. 42 l. 9.
Uteris, & Veneri ſervit amica manus,
Hoc nihil eſſe putas? ſcelus eſt, mihi crede, ſed ingens,
Quantum vix animo concipis ipſe tuo.
Ipſam crede tibi naturam dicere rerum,
Iſtud quod digitis, Pontice, perdis, homo eſt.

For the internal act of the will and the external act of the man are but one act, unleſſe the inſtrument and the efficient cauſe produce two diſtinct effects in every concourſe; and whatſoever is done without is firſt conſented to within, and is but the miniſtery and execution of the ſin within. For the act of chuſing is the foundation of all morality: and therefore when not onely the firſt deſign, but the appendages and other conſequents are foreſeen, and yet the action is choſen, the will is guilty of ſo many evils as it chuſes directly and indirectly, principally and conſequently.

5. But to reduce this doctrine to more minute and particular conſiderations and order.

* * *

Of the identity and diverſity reſpectively of actions internal and external, and the multiplications of ſins by them.

1. Every external act proceeding from the internal makes but one moral act, whether it be good or bad. The election and choice is the foundation: and as they are many houſes which are built upon many foundations, but many chambers and galleries built upon one foundation is but one houſe, though there be many rooms; ſo the internal and external relying upon one *baſis* operating to the ſame end, effecting the ſame work, having the ſame cauſe, and being but ſeveral lengths of the ſame thrid, doe not make two acts; as the ſoul ſeeing by the eye hath but one viſion, and the will acting by the hand does but her own act by her own inſtrument: and therefore although they are *Phyſically* or *Naturally* ſeveral actions, becauſe elicite and acted by ſeveral faculties, yet *morally* they are but one; for what the hand or eye alone does, is neither good nor evil, but it is made ſo by the mind and will.

6. 2. If there be two acts of will in one external act, there is a double malice or goodneſſe reſpectively. A Prince commands his Almoner to give much almes to the poor; the almoner being alſo a good man loves the imployment, and does it very often: the external act is but the one miniſtery of almes, but the internal is both obedience and charity.

7. 3. The external act is the occaſion of the intending or extending the internal, but directly & of it ſelf increaſes not the goodneſſe or the badneſſe of it. For *the external act is not properly and formally good or bad*, but onely objectively and materially; juſt as a wall cannot increaſe the whiteneſſe, unleſſe the quality it ſelf be intended by it's own principle. But as heat in iron is more intenſe then it is in ſtraw; ſo may the goodneſſe or the badneſſe of an internal act be increaſed by the external: but this is onely by accident. By inſtances of theſe ſeveral aſſertions, they will be more intelligible. When *John* ſurnam'd the Almoner commanded his boy to carry an almes to a poor man that was ſick in the next village, the boy ſometimes would detain it and reſerve it for his own vanity; but S. *John* loſt not the reward of his charity, for his internal act was good, but it was no cauſe of the outward event at all. And on the other ſide, when *Mævius* lay with his wife *Petronilla*, ſuppoſing ſhe had been *Nicoſtrata*, he was an adulterer before God, though by the laws of men he was harmleſſe. And if a man ſteals a horſe in the night from his neighbours field, and carries him away ſecretly, and by the morning perceives it to be his own, he is no leſſe guilty before God and his Confeſſor then if he had indeed ſtoln his neighbours. The reaſon is, becauſe the external act hath another cauſe, which is or may be innocent, but the internal act was of it ſelf completely evil and malicious. In theſe caſes, where the internal volition is not the cauſe of the external event, the ſin is terminated within, and that to him who is to be our Judge is as viſible as any thing. But when the internal volition is properly the cauſe of the action external, there more is done then it could doe alone. For in *a good work* the will finds the difficulties which it could not perceive while it was onely in purpoſe; and it is eaſy to reſolve to be patient in ſickneſſe when we feel nothing of it, but onely diſcourſe it, and caſt about in our eaſy minds what we ſuppoſe it will be: but *Tu ſi hic eſſes, aliter ſentires*, ſaid the ſick man; it may be when it comes to be acted, the will ſhall find new work, new difficulties, and will need new fortifications, and renewed reſolutions, and the repetition of acts, and freſh aids of reaſon: ſo that although all the good or evil that is in all this, is the good or evil of the will; yet this is it which I ſaid, that the external action hath in it the materiality of good and evil, and by accident the external act is better then the internal, that is, the will does better when ſhe reduces her purpoſes to act very often, then when ſhe does onely reſolve. And for this very reaſon

8. 4. The external act does ſuperadde new obligations beyond thoſe which are conſequent to the mere internal volition though never ſo perfect and complete. For the external act is exemplar in vertue, or ſcandalous in evil; it obliges to reſtitution, to Eccleſiaſtical cenſures and legal penalties, in which there are active and paſſive duties incumbent on us (as I have repreſented in the third book.) Thus alſo in good things; the external participation of the Sacraments hath in it ſome advantages beyond the internal: but theſe things are accidental to the action, and nothing of the nature of it; they are nothing of the direct morality, but the conſequent of it; which

which the ſinner ought indeed to have conſider'd beforehand, and to act or to omit accordingly.

9. 5. If the courſe and continuance of the outward act be interrupted, and then proceeded in again, when the cauſe of the interciſion is over, that action ſeeming but one, is more then one ſin, or vertuous act reſpectively. He that reſolves to bring up a poor orphan in learning and capacities of doing and receiving worthy benefit, does often ſleep and often not think of it, and hath many occaſions to renew his reſolution: although his obligation be ſtill permanent, yet if he delights in it, and again chuſes, ſo often is the almes imputed to him, he does ſo many acts of charity. *Titius* intends to give to *Codrus* a new gown at the next Calends, but forgets his intention; but yet at the Calends does upon a new intention give him a gown. This act is but one, but hath no morality from the firſt intention, but from the ſecond, though there were two internal acts of volition to the ſame external; becauſe the firſt did ceaſe to be, and therefore could have no influence into the effect. But this multiplication of actions and imputations cannot be by every ſuddain and phyſical interruption, but by ſuch an interruption onely where the firſt intention is not ſufficient to finiſh the external act. Thus if a man againſt his will nod at his prayers, and awakening himſelf by his nodding proceed in his devotion, he does not pray twice, but once, becauſe the firſt intention is ſufficient to finiſh his prayer. But if he falls aſleep over-night and ſleeps ſtill morning, his morning-prayer is upon a new account, and his will muſt renew her act, or nothing is done. But in inſtances of good this part of the Rule hath but little uſe; for no man will dare to call God to a ſtrict and minute reckoning, and require his reward by number and weight. But in ſinfull actions there is more conſideration; and if we be not ſtrict in our weights and meaſures, God will; and if we will not be ſure to put enough into the ballance of repentance, there will be too much in that of judgment and condemnation: and therefore it concerns us as much as we can, to tell the number of our ſins. Therefore

10. 6. External actions in order to one end, though produc'd by one internal act or reſolution of the will, yet doe not make one external act, unleſſe the end be at the ſame time acquir'd. Thus if the man reſolves to lay wait for his enemy till he have deſtroyed him, and therefore lays wait to day and to morrow, and prevails not untill the third day, his ſin is more then one, though his reſolution was but one. The reaſon is, becauſe there muſt of neceſſity be a repetition of the ſame reſolution, or at leaſt of ſome miniſtring acts toward the perfecting that reſolution; and although the reſolution and the end were one, yet to every miniſtring intermedial act there is alſo ſome internal act proportionate. Thus every impure contact in order to impure embraces are ſins diſtinct from the final adultery, and ſo is the joyfull remembrance of it afterwards. But becauſe theſe things have in them ſome little intricacy, therefore I add this which is plain and uſefull: Every renewing of an external action ſubordinate to a ſinfull end is either a repeating of the ſin, or, which is all one, it is an aggravation of it; it extends it, or intends it. He that calls a man fool three times together either commits three ſins, or one as great as three: and he that ſtrikes ſeven blows to kill a man, hath ſo many times lift up his hand againſt God; and though he hath kill'd the man but once, yet he ſhall be avenged ſeven times. But if after any notable interruption of the act, the intention be renewed, ſo often

is the ſin repeated, though it be but one external event afterward. He that reſolves every day of the week to be abſent from Divine ſervice the Sunday following, is to eſtimate his ſin by the number of his internal actions, and not by the ſingularity of that omiſſion.

11. 7. Internal acts of the will are then multiplied, when they proceed after an expreſſe revocation, or a deliberate intermiſſion, or a conſiderable phyſical interruption, or by an actual attendance to things incompoſſible and inconſiſtent with the firſt reſolution. There is no difficulty in theſe particulars, ſave onely that in making judgments concerning them we proceed by prudent and moral proportions, by the uſual meaſures of laws, and the accounts of wiſe men; onely the extremes are evident and notorious. For he that being upon his knees looſes his attention for a minute & then recalls it, does not pray twice, or ſo often as he again thinks actually of what he is doing; and we are ſure that he who ſaies a *Pater noſter* to day, and another to morrow, does pray twice: and between theſe no certain rule can be given but what is meaſur'd and divided by prudence and ſimilitude with the unity of natural and artificial compoſitions. But he onely does well who ſecures his caſes of conſcience in this inquiry, by interrupting his evil acts as ſoon as they begin, and gives them quite over as ſoon as they are interrupted, and when he hath choſen well, perſeveres as long as nature and exteriour accidents will give him leave, and renews that choice as ſoon as his divertiſement can ceaſe.

Queſtion.

12. In the purſuit of the matter of this Rule, it is ſeaſonable to inquire concerning [*what degrees of guiltineſſe are contracted by the beginnings and deſires of wickedneſſe which are imperfect and unfiniſh'd.*]

* Lib. 3. Chap. 1. Rule 4. I have already*given account that the inward acts of will are very often puniſhable by humane laws, and from thence ſome light may be reflected to this inquiry, which is concerning *the eſtimate which God and the Conſcience are to make of imperfect actions:* for though in humane accounts and the eſtimate of our laws, that a thing is *ſecret* or *public* is a great difference and concernment; yet in this queſtion, and in relation to God and the conſcience immediately, it is nothing at all, for nothing here is ſecret, every thing is viſible, and it is always day here. But now the inquiry is *concerning thoſe things which are imperfect*, and ſo ſometimes are ſecret as to men becauſe they are onely in deſires, and ſometimes they are public, but yet not finiſhed & completed: And here the rule is, *Nunquam mens exitu æſtimanda eſt.* God judges not by the event, but by the mind, by the good or ill will: ſo *Apuleius*, *In maleficiis etiam cogitata ſcelera, non perfecta adhuc, vindicantur, cruentâ mente, purâ manu.* He that thinks it, that is, that reſolves it perfectly, putting the laſt hand of the will to it, his mind is bloudy, though his hand be pure, and ſhall find an equal vengeance. But this is to be underſtood of the laſt act of the will, and that which is immediate to the external action; if it be in counſel, that is, not whether it ſhall be done or no, but how it ſhall be done, it is as bad and hatefull in the eyes of God as the external violence. To this purpoſe is that of *Paulus* the Lawyer, *Conſilium uniuſcujuſque, non factum puniendum eſt, Not the fact, but the Counſel is to be puniſhed:*

Quintil.

Sententiar. 5.

puniſhed: by *Counſel* meaning the deſign and reſolution, the perfect and complete volition, which is then without all queſtion come to the perfection of its malice and evil heart, when it is gone as far as to the beginning of action. *Inſidiatus civi etiamſi non effecerit ſcelus, pœnas tamen legibus ſolvet*, ſaid *Quintilian*, He that lays a ſnare for a mans life ſhall ſmart for it, though the man eſcape; the laws ſhall puniſh him: but if they doe not, it is all one in Conſcience. For as *Donatus* ſaid well, *Non perficere, ſed conari velle aliquid ad ſcelus, effectio eſt, etiamſi non poteſt fieri.* It is nothing to the ſinner that God defends the innocent and reſcues him from his fraud or violence, or ſlander; he hath done his work when he reſolv'd and endeavour'd it. For there is no degrees of morality beyond the laſt act of the will: the ſin or vertue may be *extended* by *multiplication* or confirmation of the ſame acts, but no way *intended* beyond that act of the will which commands execution. in Andria, act. 1. ſc. 4.

13. But this diſtinction ought to be obſerved not onely in order to puniſhments inflicted by humane laws upon Criminals accus'd of imperfect acts, but in order to conſcience. For though the whole morality of the act depends upon the laſt purpoſe of the will, and is before God the fulneſſe of the ſin in reſpect of degrees of any ſimple ſin; yet when it paſſes on to execution the will may grow worſe by repetition of her acts, or abiding in them, ſhe may ſin more ſins. For the acts themſelves about which there are endeavours made, are not always perfect, ſo as the criminal can perfect them; for it is not to all purpoſes perfect when the will hath commanded the reſolution to be acted, no nor when ſomething is done towards it by the ſinning man, but ſomething elſe may be added, and till it be, there is ſome difference in the caſe. The examples will clear it. *Priſcus Merula* reſolves to kill his brother *Taurinus*, and in order to it, buyes a dagger, way-lays him as he goes to *Auguſtus*, ſets upon him, throws him down; but as he is lifting up his hand to ſtrike, hears a noiſe behind the hedge, and being affrighted, curſes his brother and wiſhes him dead, and runs away. *Merula* is in the ſight of God guilty of murder, and if he had kill'd him effectively, there had been no greater malice, but more miſchief, and more acts of malice; and therefore the judges are to diminiſh ſomething of his puniſhment, not onely becauſe the life of a citizen was not loſt, but becauſe *Merula* had not done all his part of the murder, that is, his brother could not have died, unleſſe he had done ſomething beyond what he did. But when the *Egyptian* nobility being weary of a dull melancholy Prince, who by his healthleſſe ſpirit was good for nothing, gave him a brisk poiſon to diſpatch him; that which would have burnt to aſhes any perſon that had any fire within him, did but heighten him to the ordinary temper of another man, it onely warm'd him into an active ſpirit, and he became a wiſe Prince. Here the murder was not effected, but there was on the traytors part nothing wanting to the completing of the wickedneſſe: and therefore as in humane laws they are to have no abatement of ſentence extraordinary, ſo in the Court of Conſcience they are to think of no excuſe, no diminution, but every thing is preſent that can make all that greatneſſe which can be in the nature of that ſin: and in the firſt caſe there may be an alteration ſo timely as to change the mind before it was at the utmoſt end of the line of wickedneſſe; but in the ſecond caſe, whether the effect follow or no, there is place left for nothing, unleſſe peradventure for repentance. That part which concerns humane laws is alterable as men pleaſe, and in Chriſtendome (unleſſe

leſſe it be in the greateſt crimes) cuſtome hath againſt the purpoſe of laws given impunity to them who without effect have attempted to commit vile actions; yet in the Court of Conſcience and by the meaſures of religion the matter is unchangeable.

14. There are ſome other ways of imperfect acts, which are to be regulated by the proportion of theſe meaſures. 1. He that kills a child in his Mothers wombe is as guilty of murder as he that kills a man in the field, if he did equally intend it. In this it is true that the Lawyers and Phyſicians diſtinguiſh the time of the abortion. If the child was efform'd into a humane ſhape it is capital by the laws; but not if it was inform and unſhapen. But in order to Conſcience I perfectly conſent to the doctrine of the old Chriſtians, recorded by *Tertullian*, *Etiam conceptum utero, dum adhuc ſanguis in hominem deliberatur, diſſolvere non licet. Homicidii feſtinatio eſt prohibere naſci. Nec refert natam quis eripiat animam an naſcentem diſturbet. Homo eſt, & qui futurus eſt: etiam fructus omnis jam in ſemine eſt.* While the bloud is in deliberation whether it ſhall be male or female, it is not lawfull to diſſolve it; and he that intends to hinder it from life is but a haſty murderer. He is guilty of inferring death who prevents that to have life to which God and nature did deſign it. But this is owing to the choice and deſign of the will, for the effect of one is much leſſe then the effect of the other upon many conſiderations: but if the malice was not leſſe, the difference of the effect makes no diminution.

in Apologet. & in Exhortat. caſtit. & de Virg. velandis.

15. The other caſe is, *If a man ſmite his neighbour that he die, he ſhall ſurely be put to death*, ſaid God to *Moſes*. That is, if he purpoſe to ſmite him, though he did not purpoſe to kill him, but wound him onely, he hath ſinn'd unto death. The Vulgar Latin reads it, *Qui percuſſerit hominem volens occidere*] *He that ſmites a man, willing to kill him.* But this laſt clauſe is neither in the Hebrew nor the Greek. And though it is ſomething leſſe to intend to wound him grievouſly, then to kill him; yet he that willingly gives that wound which he would have doe him a miſchief, and gives it ſo that it does give him his death, had a malice ſo great that it could not well diſcern between wounds and death. But in this caſe though it is certain God will judge righteouſly, and make abatement if there be any cauſe; yet in humane laws, and in the meaſures of his own repentance he will not and ought not to find gentle ſentences, but the whole perfect event will be imputed to the imperfect act of his will. For it was too much that he was willing to doe any miſchief; and *ex toto noluiſſe debet qui imprudentiâ defenditur*, ſaid *Seneca*: He cannot pretend that the evil event was againſt his will, when it is certain he did perfectly conſent to a great part of it.

Exod. 21. 12.

RULE IV.

An involuntary effect proceeding from a voluntary cauſe is imputed to the agent, as if it were voluntary and directly choſen.

1. HE that is Husband of the wife is juſtly preſum'd to be the Father of the child, and he that chuſes the cauſe muſt own all thoſe which are the effects and proper productions of it; and all cauſes are not immediate and contiguous to the effect. He that drinks himſelf drunk that without fear and ſhame he may fornicate, though when he fornicates he hath not the uſe of his reaſon any more then of his modeſty, and cannot deliberate, and therefore cannot chuſe, yet he is guilty of fornication as well as drunkenneſſe. He that eats high and drinks deep that in his ſleep he may procure pollution, is guilty of that uncleanneſſe as well as of that exceſſe, which S. *Paul* intimates in thoſe words, *Make not proviſion for the fleſh to fullfill the luſts thereof*; that is, what you deſign as the purpoſe of your intemperance, is your crime, though it be a natural effect when things are by your choice ſo diſpoſed: and when our Bleſſed Saviour commanded us to *take heed of ſurfeting and drunkenneſſe*, he forewarned us as well of the effect as of the cauſe; for κραιπάλη παρὰ τὸ κάρα πάλλειν, ſurfeting hath it's name from the event, becauſe it cauſes diſſolutions of the nerves and dilutions of the brain, and conſequently palſies, which when we have contracted, we are by our own fault diſabled in the ſervice of God. Κραιπάλη ἀπὸ προπεραίας· ἀπὸ χθιζῆς οἰνοποσίας, ſurfeting is the product of *yeſterdayes* debauchery: and ſince the effect is alſo forbidden, he that chuſes it by delighting in the cauſe, chuſes alſo what is forbidden, and therefore that which will be imputed to him. But this I have largely proved upon a diſtinct account, by making it appear that even a vitious habit, the facility and promptneſſe to ſin is an averſion from God, and makes us hateſull by a malignity diſtinct from that which is inherent in all the ſingle actions. Thus he ſins that ſwears by cuſtome, though he have no advertency to what he ſaies, and knows nothing of it: he choſe thoſe actions which introduc'd the habit, and he can derive no impunity from his firſt crime: and he that is the greateſt ſinner can never come to that ſtate of things that he ſhall take God's name in vain, and yet be held guiltleſſe.

Luke 21. 34.

Unum neceſſar. cap. 5.

2. But this Rule is to be underſtood with theſe Cautions.

1. The involuntary effect is imputed to the voluntary cauſe, if that effect was foreſeen, or if it was deſign'd, though when it be acted, the fooliſh man knows but little of it, no more then a beaſt does of his own acts of pleaſure, which he perceives by ſenſe, but does not by Counſel enter into it. Of this there is no queſtion, becauſe he put his hand to a hook of iron, and that being faſtned upon the rich veſſels in the houſe draws forth what the man it may be knows not to be there; but his hand willingly mov'd the iron hook, and therefore his hand and his will is the thief.

2. The

3. 2. The involuntary effect is not imputed to the voluntary cauſe, if after it is choſen by the will in one act, it is revok'd by another before the miſchief be effected. Thus if *Mævius* ſhoot an arrow to kill *Paternus*, and in the inſtant of it's egreſſion *nollet factum*, repents of the intended evil, that miſchief which is then done ſhall not be imputed to him. This indeed is generally ſaid both by the Divines and Lawyers; but it hath no effect at all that is material and conſiderable, ſave onely this, that the repentance does waſh away the guilt: but in true ſpeaking the whole guilt was contracted, becauſe the act of the will was completed up to action and execution, beyond which there can be no intenſion of the evil; but then the effect is therefore not imputed becauſe the cauſe alſo is pardon'd by the meanes of repentance, and ſo it is even after the miſchief is done. He that by repentance recalls the miſchief, ſhall by pardon be clear'd from guiltineſſe, whether that repentance be before or after.

4. 3. But that which we can rely upon in this particular, and of which great uſe is to be made, is this, That though all the evil events which are foreſeen, or ought to have been conſider'd, are imputed even then when they are not in our power, to him who willingly brought in the cauſe of thoſe evils; yet whatſoever was not foreſeen, and therefore not deſign'd, nor yet choſen, by conſequence and implication is not imputed to him that brought that fooliſh neceſſity upon himſelf. Conſonant to this is the doctrine of S. *Auſtin*, *Culpandus eſt Loth non quantum inceſtus in ebrietate admiſſus, ſed quantum ebrietas meretur*, *Lot* was anſwerable for his drunkenneſſe, but not for his inceſt cauſed by his drunkennneſſe, which he foreſaw not and deſigned not. But this caſe alſo ſuffers alteration. For if *Lot* had been warned of the evils of his firſt nights drunkenneſſe, and yet would be drunk the next night, he is not ſo innocent of the effect, the inceſt lies nearer to him. Onely if after that monition he ſuſpected as little as at firſt, he was not indeed guilty of the inceſt directly, but of a more intolerable drunkenneſſe and a careleſſe ſpirit, who by the firſt ſad event did not conſider and was not affrighted from the intolerable cauſe. But thus if a ſervant throws himſelf into a pit, and breaks a leg or an arme that he might not work, his not working is as much imputed to him as his uncharitable injury to himſelf: but if afterwards, as *Pyrrho* ſaw his Maſter faln into a ditch, and by reaſon of that firſt fall he cannot help his Maſter out, that is not to be imputed to him; for he will'd it not, it was not included virtually in any act of his will or underſtanding. And thus it is alſo in the Divine judgements, which if we procure by our own vileneſſes, all that impotency and diſability of obeying God in external religion which is conſequent to the ſuffering that judgment which himſelf procur'd, & by which he is faln ſick or mad or lame, is not imputed to him; becauſe to make himſelf guilty of a thing, it is not ſufficient that he be the *meritorious cauſe* of that which procur'd it, but he muſt be *the voluntary and diſcerning cauſe*. That evil of which a man is onely the meritorious cauſe depends upon another will beſides his own, and is indeed an effect deſerv'd by him, but not willingly conſented to, but very much againſt him; and therefore can never be imputed to him to any other purpoſe but to upbraid his infelicity, who juſtly ſuffers what he would not foreſee, and now cannot avoid.

lib. 22. contr. Fauſt. cap. 44.

5. 4. When a man falls into a ſtate or condition in which he cannot chuſe, thoſe acts which are done in that ſtate are imputed to him, if they be ſuch acts

acts to which no new consent is requir'd, but that it be sufficient that he doe not dissent, and if those acts be consonant to his former will, all such effects are imputed to the will. Thus if *Titius* being a Catechumen desir'd to be baptized, and then falls into madnesse, or stupidity, or a lethargy, he is capable of being baptized, because nothing is in some persons requir'd but a mere susceptibility, and that there be no just impediment; the grace of the Sacrament being so mere a favour, that it is the first grace to which nothing on our parts is previous but that all impediments be removed. Since therefore in this a man is passive, his present indisposition of making new acts of election renders him not incapable of receiving a favour; always provided that there was in him no indisposition and impediment before his present accident, but that he did desire it and was capable before: that volition hath the same effect in the present state of madnesse or stupidity as it could have if he had been well. But when this comes to be reduc'd to practice, I know of no material change it works upon the man in case he dies in that sad affliction, but what was by the mercies of God laid up for him upon the account of his own goodnesse and the mans former desire. But if he does live, that susception of the Sacrament of baptisme is sufficient for him for his whole life, and the daies of his recovery; that is, all that which he could be bound to in the susception, is perform'd effectively in that state in which he could not presently chuse. But I shall resume this consideration and inquiry upon occasion of something to be explicated in the sixth Rule of this Chapter.

6. 5. But in matter of punishment the case is something different. The case is this; *Mizaldus* a *Florentine* smote an Officer of the Great Duke in the Court, and apprehending that he was in great danger of suffering a great punishment, grew sad and impatient, and at last distracted: the question upon the case is,

Question.

Whether or no Mizaldus *may, being mad, be punished by death, or the abscission of his hand, for a fact he did in his health and the days of understanding.* To this the answers are various by reason of the several cases that may arise.

7. 1. If the punishment cannot be inflicted without legal processe, trial, conviction and sentence, the mad man cannot be punish'd, because he is not capable of passing through the solennities of law: but if the sentence was pass'd before his madnesse, then the evil may be inflicted, that is, it is just if it be; and it may be done unlesse some other consideration interpose to hinder it.

8. 2. In punishments where no judicial processe is requir'd, a man that is mad may be punish'd for what he did when he was sober. If a son strikes his Father, and then falls mad, the Father may disinherit him for all his madnesse, because the Father may proceed summarily and upon sense of the crime; and he that by his own voluntary act did deserve it, is not by madnesse made uncapable of the punishment, to which in this case nothing but a passiveneſse is requir'd. Bartol. in l. ex facto. in principio. ff. de vulg. & pupilla substit.

3. This

9. 3. This alſo holds in caſes of puniſhments *ipſo facto* incurr'd, that is, which a man is fallen into as ſoon as ever the crime is committed. And of this there is a double reaſon; the one is becauſe the puniſhment is actually incurred before he is actually mad, for the very crime it ſelf is to him as a Judge and ſentence, and the ſanction of the law is all the ſolennity: and that's the other reaſon, conſequent to the former; in this caſe there needs no proceſſe, and therefore the ſinners indiſpoſition cannot make him uncapable of paſſing into puniſhment.

10. 4. In puniſhments *Emendatory*, that is, ſuch which beſides the exemplar juſtice, intend to reform the Criminal, he that is fallen into madneſſe ought not to ſuffer them, whether the ſentence be to be paſs'd by the law or by the Judge, whether it be ſolemn or ſummary, whether it be paſs'd before his calamity or after. The reaſon of this is plain, becauſe ſuch puniſhments being in order to an end which cannot be acquired, are wholly to no purpoſe, and therefore are tyrannical and unreaſonable; the man is not capable of amendment, and therefore not of ſuch puniſhments which are emendatory.

11. But after all this, the moderation of charity in Chriſtian Judicatories is ſuch, as that they refuſe to inflict corporal penalties on diſtracted people, it being enough that they are already but too miſerable.

Senec. Herc. Fur.

Solus te jam præſtare poteſt
Furor inſontem: proxima puris
Sors eſt manibus, neſcire nefas.

He that knows not what he does, or what he hath done, is next to him that is innocent. And when the man is civilly dead, it is to little purpoſe to make him ſink further under the civil ſword. That's a dreadfull juſtice and ſecurity that would kill a man twice over. Onely when any thing of example, or public intereſt, or deteſtation of the fact is concern'd, it may be done according to the former meaſures, and for the preſent conſiderations; juſt as it is in ſome caſes lawfull to puniſh a man after he is dead, by denying him an honourable or Chriſtian ſepulture: where although there be ſomething particular in the caſe, the nature of this puniſhment being ſuch, that becauſe we doe not bury them before they be dead, this evil muſt be inflicted upon him that feels it not, or not at all be inflicted; yet indeed it is true that it ought not at all to be inflicted upon any direct account of juſtice, but upon collateral conſiderations, as for terror and exemplarity; and ſo it may be in the caſe of the preſent queſtion.

§. 2. *Of the Diminutions of voluntary actions: and firſt of Ignorance, and it's influence into the morality of Humane actions.*

RULE V.

Nothing is good or bad, but what we know, or concerning which we can deliberate.

1. THE great meaſures of morality are, *Chuſe the good, and eſchew the evil:* before theſe can be choſen or avoided they muſt be conſider'd and diſcern'd. And therefore thoſe things concerning which there can be no deliberation are neither morally good nor bad, and thoſe perſons who cannot deliberate, can neither be vertuous nor vicious; but the things may be lawfull, and the perſons be innocent, but both of them negatively, that is, the things are not evil, and the perſons are not criminal. And therefore S. *Paul* celebrating the immenſe love of God to mankind, ſays that *God would have all men to be ſaved*; and in order to this, he addes, he would have all men *come to the knowledge of the truth*, as knowing this to be the onely way: no man can be ſav'd unleſſe he knows ſaving truth, but every man may be ſav'd unleſſe it be his own fault; and therefore there is to every man reveal'd ſo much truth as is ſufficient to his ſalvation. It may be this ſaving truth is reveal'd by degrees, and ſo that he who hath the firſt general propoſitions of nature and reaſon, and uſes them well, ſhall have more, even ſo much as is neceſſary untill he comes to all ſufficient knowledge. *He that comes to God* (ſaith S. *Paul*) *muſt believe that God is, and that he is a rewarder of them that diligently ſeek him.* This is the Gentiles Creed, but ſuch as at firſt will be ſufficient to bring them unto God; whether when they are come he will give them his Holy Spirit, and teach them whatſoever is yet neceſſary. I am not here to diſpute what is likely to be the condition of Heathens in the other world: it concerns not us, it is not a caſe of Conſcience: but we are ſure that all men have the Law of God written in their hearts; that God is ſo manifeſted in the creatures, and ſo communicates himſelf to mankind in benefits and bleſſings, that no man hath juſt cauſe to ſay he knows not God. We ſee alſo that the Heathens are not fools, that they underſtand arts and ſciences, that they diſcourſe rarely well of the works of God, of good and evil, of puniſhment and reward: and it were ſtrange that it ſhould be impoſſible for them to know what is neceſſary, and ſtranger yet that God ſhould exact that of them which is not poſſible for them to know. But yet on the other ſide, we ſee infinite numbers of Chriſtians that know very little of God, and very many for whom there is no courſe taken that they ſhould know him; and what ſhall be the event of theſe things is hard to tell. But it is very certain that without a mans own fault, no man ſhall eternally periſh: and therefore it is alſo certain that every man that will uſe what diligence he can and ought in his circumſtances, he ſhall know all that in his circumſtances is neceſſary; and therefore *Juſtin Martyr* ſaid well, *voluntate ignorare illos, qui res ad cognitionem ducentes habent, nec de ſcientia laborant.* 1 Timoth. 4.

Every man hath enough of knowledge to make him good if he pleaſe: and it is infinitely culpable and criminal that men by their induſtry ſhall become ſo wiſe in the affairs of the world, and ſo ignorant in that which is their Eternal intereſt; it is becauſe they love it not.

Boeth. lib. 3. de Conſol. Philoſ.

Non aurum in viridi quæritis arbore,
Nec vite gemmas carpitis:
Non altis laqueos montibus abditis
Ut piſce ditetis dapes,

No man looks for Emeralds in a tree, nor cuts his vines hoping that they will bleed rubies or weep pearls. Which of all the Heathens or Chriſtians ever went to take goats in the *Tyrrhene* waters, or look'd for Cryſtall in a furnace? Many know what pits have the beſt Oyſters, and where the fatteſt Tortoiſe feeds.

Sed quonam lateat quod cupiunt bonum
Neſcire cæci ſuſtinent:
Et quod ſtelliferum trans abiit polum
Tellure demerſi petunt,

and yet they look for immortality in money, and dig deep into the earth, hoping there to find that bleſſedneſſe which their reaſon tells them dwells beyond the ſtarres. Men have enough of reaſon and law put into their hearts by which they read the will of God; and therefore no man can in the univerſall lines and meaſures of ſalvation pretend ignorance: I am ſure we cannot, and that is all that concerns us. And therefore ignorance in the Law of God, in that which concerns our neceſſary duty, is ſo far from excuſing any thing it cauſes, that it ſelf is very criminal. *Non eſt levius omnino neſcire quod liceat, quam facere aliquid quod ſcias non licere,* To doe ſomethings that we know to be unlawfull, is not ſo great a crime, as to be wholly ignorant of what is and what is not lawfull. So that ſince the great end why God hath given us liberty and election, reaſon and underſtanding, is that by theſe we ſhould ſerve him and partake of his felicities, it follows that in all that is of neceſſity to our ſalvation God is not wanting to give us ſufficient notice; and of good and evil in general every man that hath the uſe of reaſon does or may underſtand the rules and differences.

Seneca.

2. But if we deſcend to particular rules and laws, the caſe is different. So *Gregory Nyſſen* ſaid, *Univerſalium ſecundum electionem non eſſe involuntariam ignorantiam, ſed particularium,* A man cannot againſt his will be ignorant of the univerſal precepts that concern our life Eternal and Election, but of particulars a man may. That a man muſt not oppreſſe his brother by cruel or crafty bargains every man ought to know: but there are many that doe not know whether all uſury be a cruelty or oppreſſion, or in any ſenſe criminal. But concerning theſe things we may better take an eſtimate by the following meaſures.

lib. 5. de Philoſoph. cap. 2.

* * *

Of what things a man may or may not be innocently ignorant.

3. 1. No man can be innocently ignorant of that which all the Nations of the world have ever believed and publicly profeſſed; as *that there is a God*

God; that *God is good and juſt and true*; that *he is to be worſhipped*; that *we muſt doe no more wrong then we are willing to receive or ſuffer.* Becauſe theſe things and the like are ſo conveyed to us in our creation that we know them without an external Teacher; and yet they are ſo every where taught, that we cannot but know them, if we never conſulted with our natural reaſon.

4. 2. No Chriſtian can be innocently ignorant of that which the Catholic Church teaches to be neceſſary to ſalvation. The reaſon of this is, becauſe every one that knows any thing of God, and of heaven and hell, as every Chriſtian is ſuppos'd to doe, cannot but know it is neceſſary he learn ſomething or other in order to it; and if any thing, then certainly that which is neceſſary: and of that nothing can ſo well judge, nothing can teach ſo readily as the whole Church; for if the whole Church teaches it as neceſſary, then it is taught every where, and at all times, and therefore to be ignorant of ſuch things can never be ſuppos'd innocent.

5. 3. Of that which is by ſeveral Churches and ſocieties of wiſe and good men diſputed, a man may be innocently ignorant; for there is ſuppos'd difficulty, and obſcurity, and every degree of theſe is the greateſt indication that there is not of them any abſolute neceſſity. What God hath made neceſſary to be known, he hath given ſufficient means by which it can be known. But becauſe every man cannot diſpute, and of them that can, very many doe it to very little purpoſe, and they had better let it alone, and by diſputing men often make more intrigues, but ſeldome more manifeſtations of what is obſcure; it is certain that which cannot be known but with ſome difficulty and more uncertainty, may be unknown with very much innocence.

6. 4. Thoſe things which doe not concern good life, and the neceſſities of this world and of the other, are not of neceſſity to be known by every one; becauſe there is beyond theſe no common and univerſal neceſſity. But beyond theſe

7. 5. Whatſoever concerns every mans duty in ſpecial, to which he is ſpecially oblig'd, of that he cannot innocently be ignorant, becauſe he hath brought upon himſelf a ſpecial obligation of a new duty, to which he muſt take care that ſufficient aides and notices be procur'd. Thus muſt a Biſhop underſtand not onely the articles of faith, but the rules of manners, not onely for himſelf, but for thoſe which are under his charge; he muſt be able to inſtruct others in the myſteries of religion, and to convince the gainſayers; that is, he muſt have knowledge ſufficient to doe what God requires of him, and what himſelf hath undertaken. * But then as there is in the duty of every Chriſtian, ſo there is in the charge of every office, ſome things that are primely neceſſary, ſome things that are onely uſefull, and ſome for ornament, and ſome for excellency and perfection. So that as of every Chriſtian ſo much knowledge is requir'd, that he be not ignorant of what is neceſſary for his great calling, but of other things leſſe neceſſary there is leſſe knowledge requir'd; ſo it is in every ſpecial calling. For although a Biſhop muſt know how to teach ſound doctrine, and to reprove evil manners; & if he knows not theſe things, his ignorance is criminal: yet a Biſhop may be innocent and laudable though he be not ſo learned

as S. *Gregory Nyſſen*. *Valerius* the Biſhop of *Hippo* was a good man and a good Biſhop, yet he was not ſo inſtructed and able as his ſucceſſor S. *Auſtin*; and *Nectarius* of *Conſtantinople* was accounted a good Patriarch, yet he was very far ſhort of S. *Chryſoſtome*. Of what is more then of ſimple neceſſity, ſome may be innocently ignorant, but yet very few are. Becauſe God hath not confin'd his providence and his ſpirit to the miniſtery onely of what is merely and indiſpenſably neceſſary: and therefore when God hath largely diſpenſed and open'd the treaſures of his wiſedome and heavenly notices, we ſhould doe well not to content our ſelves with ſo much onely as will keep us from periſhing. Therefore that the Conſcience may be directed how far it's obligation of inquiry does extend, and may be at peace when it inquires wiſely whether the duty be done, theſe are the beſt meaſures whereby we can take account.

What diligence is neceſſary that our ignorance may be innocent.

8. 1. Our inquirie after things neceſſary muſt have no abatement or diminution, nothing leſſe then that it be ſo great and diligent as that the work be done. Becauſe whatſoever is neceſſary is ſufficiently communicated, and without that we cannot doe our duty, or receive the felicity deſign'd for us; and in that where God's part is done, if the event anſwer not, it is becauſe we have not done our part, and then we are not innocent. So that in theſe inquiries we are no otherwiſe to make a judgement of our diligence then by the event: whatſoever is leſſe then that, is leſſe then duty.

9. 2. But in things not abſolutely neceſſary, ſuch which are of conveniency and ornament, of advantage and perfection, it is certain we are not tied to all diligence that is naturally poſſible: and the reaſon is, becauſe theſe things are not ſimply neceſſary, and therefore not of neceſſity to be acquir'd by all means. Adde to this, if a man were bound to uſe all diligence to acquire all notices that can be uſefull to him in his general or in his ſpecial calling, he ſhould fall under a perpetual rack of Conſcience. For conſidering that a mans life were not ſufficient to doe this in ſome callings, and it is neceſſary in this world that a man doe many things more then the works of his office, he could never be ſuffer'd to attend to any neceſſity but what is mere and indiſpenſable and indiviſible, and never uſe any divertiſement, recreation, variety or eaſe, but he muſt firſt be tied upon the wheel, and feel the pains of a doubting and tormenting Conſcience, by reaſon of the impoſſibility of knowing whether we have done all that we can.

10. 3. In acquiring notices concerning doing any work with advantages a moral diligence is neceſſary: for he that ſtops at the gate of ſimple neceſſity hath ſome love to himſelf, and great dread of God, but no love to him; for love cannot conſiſt with a reſolution of knowing no more then we muſt needs; to get ſo much and no more will well enough ſerve the ends and the deſign of fear, but not of love: and therefore although the man that does ſo is innocent as long as he is in that ſtate, and as long as that ſtate is acceptable; yet becauſe the ſtate of fear is but the ſtate of infancy and imperfection, it muſt proceed further, or be imperfect for ever; that ſtate will not be accepted long. For if a man does his duty in that ſtate, he ſhall be enabled

enabled to goe further; and then he muſt, or elſe he ſins by deſpiſing the ſpirit of grace. But if he does not doe his duty in the firſt ſtate, then he muſt not in that ſtate of careleſneſſe and neglect of uſing moral diligence pretend that he is innocent. A man that hath been bleſſed in his firſt attempts muſt ſtill follow the method and Oeconomy of the Divine ſpirit; that is, as God increaſes in aides, ſo the man muſt increaſe in diligence and labour, and muſt uſe what means are before him to doe ſtill better and better.

11. 4. In acquiring notices not ſimply neceſſary, *a moral diligence* is ſufficient. This is an immediate conſequent of the ſecond Rule, and therefore needs not particular confirmation, but explication rather.

Therefore by *Moral diligence* is to be underſtood ſuch a diligence in acquiring notices as can * 1. conſiſt with our other affairs, and the requiſites of our calling and neceſſities; * 2. ſuch as is uſual by our ſelves in the obtaining things which we value; * 3. ſuch which is allowed by wiſe men, ſuch which a ſpiritual guide will approve; * 4. and ſuch as we our ſelves doe perceive to be the effects of a real deſire. For there ought to be nothing of ſcruple or vexation in the acts of this diligence, nor in the inquiries concerning it. And therefore if we are ſure we deſire to know what we can, and doe towards it ſuch like things as we doe in the purchaſe of other things which we greatly value, we may be at peace. For this thing does not conſiſt in an indiviſible point, it is not juſt thus much, neither more nor leſſe; but it is more or leſſe according as our love is and our leiſure, our opportunities and abilities: and if we cannot judge concerning our ſelves ſo well as to reſt in peace, let us aſk a ſpiritual guide, having firſt declar'd to him the narrative of our life and actions whereby he ſhall be enabled to make a judgement.

What is a probable ignorance?

12. Upon this account we can alſo give the meaſures and definitions of a *probable ignorance*, that is, ſuch an ignorance which is next to an invincible or an irremediable ignorance: this the Schools call *probable*. For as the *invincible ignorance* is a mere neſcience, and is either of ſuch things which we are not bound to know, becauſe God requires them of no man; or of ſuch things which we cannot know, becauſe we never heard of them, and are not taught ſufficiently, and ſo God will not require them of us: ſo next to this ſtands *the probable ignorance*, that is, when the things are propounded to be known, and can be known if we would uſe all our natural and poſſible diligence; but yet becauſe God hath not plac'd them in a neceſſary order to ſalvation, he hath not tied us to uſe all our natural diligence, but ſome diligence he does require, which when we have us'd, and yet miſſe, the ignorance is probable. Now when that is ſo, we ſhall learn by the proportions to the deſcription of the parts and requiſites of a moral diligence, and by theſe following meaſures.

13. 1. Then our ignorance is *probable*, when we enter upon the action without temerity, and yet without doubt or trepidation; that is, when our addreſſe is with conſideration, but we find no reluctancy againſt the action,

nor remorſe after it. For then it muſt be that we have faith, and doe it with a good mind, not againſt our Conſcience; and yet having no fierceneſſe of paſſion or fancy, and a mind wary enough to diſcern any objection that is near, it will be very probable that there is none at all but what ſtands a great way off, and therefore farre enough from diſturbing the innocence of the action.

14. 2. But this is to be underſtood onely in the ordinary accidents and traverſes of our lives. But if it be in matters of great concernment, ſuch as are above our ordinary imployments, as if it be in the actions and duties of an eminent office, it is not ſufficient that we have no regret or remorſe, but we muſt have an actual conſideration, a plain perceiv'd deliberation and counſel, and then no regret. It is not here enough that we have nothing againſt it, but we muſt have ſomething for it, becauſe in ſuch perſons and in ſuch accidents the proceſſe ought to be more then ordinary; that as there are greater abilities requir'd to the performance of that office, ſo there may be a proper uſe and exerciſe of thoſe abilities. And there is in this a great evidence of truth. For in ordinary things, it is very often ſo that they are well enough if they have not evidently any evil in them. But in the actions of public imployments things are not ſo indifferent; they doe hurt unleſſe they doe good, they are ſcandalous if they be ſuſpicious; they are deſign'd always to doe benefit, and if they doe not they cannot be juſtified, and therefore they muſt be look'd on with an actual conſideration: in which ſtate of things it is certain that every thing will occurre that is obvious to be conſidered; and what is not obvious to ſuch perſons is indeed very difficult, and may well be ſuppos'd to leave a probable and very excuſable ignorance.

15. 3. This alſo is to be extended to the caſe of confident aſſeverations, and confirming any propoſition with an oath, in which no man can have a probable ignorance, but he that hath us'd a diligence of inquiry ſo great as to give confidence great enough to an oath, which muſt be of a thing ſo ſure, that nothing can be a cauſe of doubt, unleſſe ſome ſecret and undiſcerned thing, to which a great and proportionable diligence hath not arriv'd and made diſcovery, doe accidentally intervene. No man muſt ſwear a thing is ſo, and yet at laſt ſay, I did *bonâ fide* ſuppoſe it ſo: but I examin'd it, I ſearch'd as well as I could, I entred into all the corners of it, I had great reaſons to believe, I had fair aſſurances it was ſo, and I every day am aſſur'd of many things of which I had leſſe teſtimony. If beyond this any thing eſcapes him, the ignorance is probable and excuſable. But the rule is the ſame as at firſt: He is ſufficiently and innocently confident, who hath no diſtruſt, and upon inquiry finds no cauſe of diſtruſt; always provided that the inquiry be in proportion to the dignity, and difficulty, and duty of the occaſion and ſubject matter.

16. By the uſe of theſe premiſſes it will be eaſy to determine *Plato*'s Caſe
l. de Mendacio. of Conſcience which he propounded to *Hippias* the Sophiſter. Whether is the better or worſe, he that ſins willingly, or he that ſins by folly & ignorance? of them that wraſtle, whether is the more inglorious, he that falls willingly, or he that is thrown in deſpite of himſelf and all his ſtrength? whether foot is better, that which halts upon deſigne, or that which halts with lameneſſe? whether were it better for a man to have a fool or a knave

to

to his ſervant? But this diſcourſe of *Plato* concerns arts onely and ſciences. But *Hippias* anſwer'd well, It was not ſo in vertues; the differences of which *Plato* did not ſeem to diſcern, but *Ariſtotle* afterwards very well explicated. The ſenſe of which in order to the purpoſe of the preſent Rule is well expreſſed by *Seneca*; *Vis ſcire quam diſſimilis eſt aliarum artium cognitio & hujus? In illis excuſatius eſt voluntate peccare quam [caſu,] ignorantiâ: in hac maxime culpa eſt, ſponte delinquere.* If a Grammarian ſpeaks a ſoloeciſme on purpoſe, he bluſhes not; but if ignorantly, he hath reaſon to be aſham'd. If the Phyſician knows not what his patient ailes, it is more ſhame to him then if he on purpoſe names a wrong diſeaſe. *At in hac parte vivendi, turpior volentium culpa eſt*; But in manners to erre willingly is the more intolerable. The reaſon of theſe things is plain, which who pleaſe may read in [a] *Gifanius* the interpreter of *Ariſtotle*, and [b] *Marſilius Ficinus* the expoſitor of *Plato*: for indeed it is evident that to moral actions the rectitude of the appetite is requir'd, not ſo to arts and ſciences and the vertues intellectual. It is enough to art that the work be well done, though with what mind it matters not as to that: and when the *Italian* painter, who was to depict a Crucifix, hir'd a ſlave to be tied to a Croſſe, that he might lively repreſent a body ſo hanging and ſo extended, did afterward ſtab him to the heart, that he might ſee and perceive every poſture and accent and little convulſion of a dying man, he was very much the worſe man for it, but no whit the worſe Painter; as appear'd by the incomparable excellency of that piece; and the principles of Art cannot be corrupted with the evil manners of the Man: but becauſe evil deſires pollute the manners, the will is to be taken care of, as the principle of all morality. To which we may adde that he who in arts erres willingly, can mend it when he pleaſe; but ſo cannot he that erres ignorantly. Ignorance is the onely diſparagement of his art, and malice is the onely diſparagement of our manners.

lib. 6. Ethic. cap. 5.

Epiſt. 98.

[a] in l. 6. Eth. c. 5.
[b] in Hippia minor.

17. But this, though diſputed to little purpoſe amongſt the Philoſophers, may be of good uſe in Caſes of Conſcience. Cardinal *Campegius* having wickedly ſaid to the Senate at *Norimberg*, that it was worſe for a Prieſt to marry then to fornicate, offer'd in juſtification of it a reaſon that could leſſe be juſtified. For (ſaith he) the Prieſt that fornicates knowes he does amiſſe, and therefore may in time repent; but the Prieſt that marries thinks he does well, and therefore will never change his mind, he will never repent. It is true, he needs not, becauſe he believes he does well; and he is not deceiv'd. But ſuppoſe he were deceiv'd, and abus'd by error, what man before him was ever ſo impious as to ſay that he that knows he does evil is in a better condition then he that erres with a good mind, & ſuppoſes he does very well? For the preſent, the ſtate is infinitely different: & for the time to come, which is the more likely to obtain mercy, he that does a thing ignorantly, or he that does it maliciouſly, we ſhall not need to appeal any whether but to all the notiees of vertue and vice which are in mankind.

Sleidan. lib. 4.

18. Indeed there are ſome ſins of ignorance, that is, ſuch which are ſubjected in the underſtanding, which are worſe then ſome ſins of malice, or ſuch which are ſubjected wholly in the will and the faculties which obey it. Thus to be ignorant of the fundamental articles of faith is a worſe ſtate of things then to have committed an act of gluttony, or to have entertain'd a wanton thought, or to have omitted Divine ſervice upon a Feſtival. The *Jewes* had an opinion that thoughts were free, and God did

not require them of us with ſeverity; but a thought againſt faith, that was highly criminal. *Cogitationem pravam Deus non habet vice facti, niſi concepta fuerit in Dei fidem atque religionem*, ſaid *R. David Kimchi*; meaning that no ſin was greater then hereſy, or an error in faith. But the reaſon of this is, not onely becauſe the effect of hereſy is, like the plague, infectious and diſſeminative; but becauſe by how much the articles of faith are more neceſſary to be believed, by ſo much is the ignorance of them more criminal, and more voluntary, and therefore leſſe excuſable. But even in matters of faith, where there is leſſe of malice or wilfull negligence ingredient into the ignorance of them, there the crime is leſſe then any thing elſe, be the inſtance what it will. But this will be more explicite in the ſequel.

in Pſal. 66. v. 18.

Rule VI.

Ignorance does always excuſe the fact, or diminiſh the malignity of it, or change the kind and nature of the ſinne.

1. IGnorance according to it's ſeveral capacities, and the ſeveral methods of art and ways of ſpeaking, hath ſeveral diviſions. But all are reducible to this in order to Conſcience. Ignorance is either *voluntary* or *involuntary*. It is *vincible* or *invincible*, that is, it can be helped or it can not. It is *the cauſe of an action*, or it *onely goes along with it*. And of theſe ſeveral ignorances there are many degrees, but no more kinds that are here fit to be conſidered.

2. 1. The firſt ſort of ignorance, which is *involuntary*, *invincible*, and *antecedent*, that is, is *the cauſe of an action*, ſo that the thing would not be done but by that ignorance, does certainly make the action alſo it ſelf involuntary, and conſequently not criminal. In this ſenſe is that of the law, *Errantis nulla voluntas, nullus conſenſus*, They that know nothing of it, conſent not. This is meant of ignorance that is involuntary in all regards, that is, ſuch as is neither choſen directly nor indirectly, but is involuntary both in the effect and in the cauſe. Thus what fools and mad-men and infants doe is not at all imputed to them, becauſe they have no underſtanding to diſcern good from evil, and therefore their appetite is not deprav'd or malicious which part ſoever they take. Επεὶ γὰρ ἀπὸ διαθέσεως ἡ ὕβρις σωίσταται, ἀκολούθως λέγομεν τὸν μαινόμενον, καὶ τὸν νήπιον, εἰ καὶ ὠθήσουσί τινα, ἢ διὰ λόγων ὑβρίσωσι, μὴ κατέχεσθαι, διότι ἃ δοκοῦσι διάθεσιν ἔχειν ὑβριζόντων μὴ αἰσθανόμενοι, ſaith the law, according to the interpretation of the *Greeks*. Injury proceeds from the affection, and conſequently we ſay that a mad-man or an infant if they ſtrike or reproch anyone they are not criminal, they have done no injury becauſe they perceiv'd it not. *Nec reputantur infantiæ anni qui ſenſu carent*, ſaith *Pliny*; The years of infancy come not under the notice of laws and judges, of right or wrong, for they have no reaſon, that is, they uſe none. So *Galen*, Τὸ μὲν ὃ, μὴ χρῆσθαι λογισμῷ μήτε τὰ θηρία, μήτε τὰ βρέφη, καὶ πᾶσι τοῖς περὶ τὸν Χρύσιππον ὁμολόγηται, All the ſcholars of *Chryſippus* conſtantly affirm that beaſts and babies have no uſe of reaſon.

l. 9. ff. de jur. & fact. ignor. & l. 20. ff. de aqua & aquæ pluvi.

l. 3. §. 2. ff. de injur.

de Hippocrat. & Platon. placit.

And

And *Iamblichus* ſuppos'd that the rational ſoul was not infus'd into children before the tenth year of their age. But that is more reaſonable which almoſt all wiſe men (excepting the Stoics) affirm, and is thus expreſſed by [a] *Gregory Nyſſen*, and his contemporary [b] *Nemeſius* in the very ſame words; Εἰ γὰρ καὶ κομιδῇ νέοις οὖσι τοῖς βρέφεσιν ἡ ἄλογος μήνη κίνησις προσέστιν, ἀλλὰ ψυχῇ λογικῇ φαμὲν ἔχειν αὐτά, ἐπειδήπερ αὐξανόμενα καὶ τὴν λογικὴν ἀναδείκνυσιν ἐνέργειαν, *Although in infants there is no action or motion of reaſon, yet we ſay that they have a reaſonable ſoul, for they manifeſt the uſe of it when they are growing up.*

apud Stobæum in Phyſicis Eclogis.

[a] de Anima. [b] de Nat. Hom. cap. 2.

3. But this occaſions a difficulty in this ſubject. For we ſee the rational ſoul exerciſing it's operations in ſome ſooner in ſome later; and as the body grows in ſtrength and grandeur, ſo does the ſoul in the uſe of reaſon and powers of deliberation and choice.

Nam velut infirmo pueri teneroque vagantur
Corpore, ſic animi ſequitur ſententia tenuis.
Inde ubi robuſtis adolevit viribus ætas,
Conſilium quoque majus, & auctior eſt animi vis.

Lucret. l. 3.

And *Hippocrates* addes that the ſoul does always grow, ἀνθρώπῳ ψυχὴ ἀεὶ φύεται ἄχρι θανάτου, A mans ſoul is born every day of a mans life, it always receives ſome increment. Now the queſtion is

How long ſhall infant ignorance or childſhneſſe excuſe ſo far as that the actions they doe ſhall be reckon'd neither to vertue nor to vice?

4. To this it will not be poſſible to give a ſtrict and definite anſwer, but a rule and a meaſure may be given. *Poſidonius* ſaid, Μικρὸν μὲν τὰ πρῶτα καὶ ἀσθενὲς ὑπάρχειν τοῦτο [λογιστικὸν,] μέγα δὲ καὶ ἰσχυρὸν ἀποτελεῖσθαι περὶ τὴν παναρεσκαιδεκαέτη ἡλικίαν, *The rational faculty is at firſt very weak, but it is great and ſtrong about the age of fourteen years:* and *Plutarch* ſaies that the *Stoics* affirm'd ἀρχεσθαι πλειότητος περὶ τὴν δευτέραν ἑβδομάδα, *about the ſecond ſeptenary*, or *the fourteenth year, they begin to be perfect:* but *Zeno* ſaid that from that year complete, πλεῖσθαι *it is perfect*, that is, as to all capacities of reward and puniſhment. But in this there was great variety. For ſome laws would puniſh boys after twelve years, not before: ſo the *Salic* law, *Si quis puer infra duodecim annos aliquam culpam commiſerit, fredus ei non requiratur, A boy before he is twelve years old, committing a fault is not tied to make amends or compoſition.* *Servius* upon that of *Virgil*,

de Placit. philoſ. 5. c. 24.

Diog. Laert. in Zenone.

tit. 26.

in 8. Eclog. Virgil.

Alter ab undecimo tum me jam ceperat annus,

ſaies, the thirteenth year is meant, becauſe that was next to puberty; for, ſaies he, the law judges of maturity not onely by years but by the habit and ſtrength of the body. But though this be leſſe by one year then that of the Stoical account, and more by one year then that of the *Salic* law; yet we find in the law of the *Greeks* and *Romans* that after ſeven years complete boys were puniſhable: ſo the * *Baſilica*, † *Michael Attaliotes* and ſome others.

* lib. 60. tit. 39.
† tit. 71.

5. But this variety was not wholly arbitrary, but it was commonly eſtabliſhed upon reaſon; for the differences were made by the different nature of the crimes of which boys were not equally capable in every year: but although in every crime ſome were forwarder then others, yet all were capable

ble of ſome ſooner then of others. Spite and malice comes ſooner then luſt: and therefore if a boy after ſeven years old kill'd a man, he was liable to the *lex Cornelia de Sicariis*; but not ſo if he were a pathic and a correſpondent in unnatural luſts, as appears in *Matthæus Blaſtares* and *Leo*; if he were under twelve years, he had impunity, *quum ætas ipſa argumento ſit neſcire eum quid patiatur*, ſaid the Emperor, *His age is an argument of his ignorance, that he knows not what he ſuffers.* For in theſe things it was reaſonable that *Galen* ſaid of *Hippocrates*, νήπια λέγει τὰ μέχρι ἥβης, *infancy is to be reckon'd untill youth*, or a power of generation: and that was it which I obſerv'd before out of *Servius*, *Bene cum annis jungit habitum corporis. Nam & in jure pubertas ex utroque colligitur.* The ſtrength of body muſt be ſuppos'd before you allow them ſtrength of reaſon, that is, a power to deliberate and chuſe thoſe ſins to which they cannot be tempted before they have natural capacities. But this, I ſay, relates onely to the crime of uncleanneſſe. Now becauſe this was commonly the firſt of our youthfull ſins, malice in infancy being prodigious and unnatural, which caus'd that advice of S. *Paul*, *In malice be children*; therefore wiſe men and the laws did uſually reckon that age to be the firſt beginning of their choice as well as of their ſtrength. But this rule is very far from being certain, and therefore S. *Auſtin* blames thoſe that doe not impute any ſins to boys before the age of fourteen; *Meritò crederemus* (ſaith he) *ſi nulla eſſent peccata niſi quæ membris genitalibus admittuntur*, We might well doe ſo if there were no ſins but the ſins of luſt: but they can ſteal ſooner, and they can lie, and, as unnatural and as unuſual as it is, they can be malicious, ſome ſooner, ſome later, according to the baſeneſſe of their diſpoſition, their pregnancy and education. *A. Gellius* tells that the *Decemviri*, who wrote the laws of the XII Tables, *ex cæteris manifeſtis furibus liberos verberari, addicique juſſerunt ei cui factum furtum eſſet*, They caus'd thieving boys to be whipp'd and given up to them from whom they had ſtoln; and if they cut corn by night and ſtole it, they were to be chaſtis'd by the diſcretion of the *Prætor*; which alſo *Pliny* notes. But then this alſo is to be added, that even in theſe things although they did not eſteem them innocent, yet becauſe their underſtanding was but little, and their choice proportionable, they inflicted but eaſy puniſhments: which *Theophanes* expreſſed by δι' ἁβλιῶν μαστιγῶσαι, they were *beaten with thongs*, or *rods*, or *ferula's*.

Vide βασιλικ. ubi ſupra. in Epit. leg. tit. ult. num 21.

lib. 10. de Geneſ. ad liter. cap. 13.

lib. 11. cap. 18.

lib. 18. cap. 3.

l. 1. §. impuberi, ff. de Senat. Silan. habena.

6. From hence we may take an eſtimate how it is in this affair as to the queſtion and relation of Conſcience. For then theſe wiſe men and wiſe law-givers did declare them puniſhable when they did ſuppoſe them criminal; though in the Sanction of laws they were to proceed by rule, and determine ὡς ὅπι τὸ πολὺ as things were moſt commonly. But then it is to be conſider'd, that ſince they being to make a rule could not at all take in extraordinaries, and there would many particulars and haſty inſtances be paſs'd before it could come to a juſt meaſure and regular eſtabliſhment, we muſt therefore proceed ſomething otherwiſe in the Court of Conſcience. For, as *Libanius* ſpeaking concerning boys, ſaid, Τοῦτο δέ ὄζει τοὔνομα τῆς ὑ πάντα ἀναμαρτήτου καὶ πόρρω μέμψεως ἡλικίας, *this is not a name of age that cannot ſin and cannot be puniſhed.* But *Anaſtaſius Sinaita* ſaies that ſometimes God imputes ſins to boys from twelve year old and upwards. But S. *Auſtin* confeſs'd the ſins of his firſt years, the peeviſhneſſe of his infancy, his wrangling with his nurſes, his very envying for the nurſes milk and fondneſſes: this was indeed a greater piety then reaſon. But when he was a boy

Declamat. 21.

Quæſt. 84.

boy and robb'd an Orchyard, he had reaſon then to be troubled for it. The ſins of children are but little, but they are ſins. *Puerorum ſenſus in qualiacunque verba prorumpens, qui certè ad ea quæ majores ſapiunt penè nullus eſt.* When boys give evil words, it is almoſt nothing. But becauſe it is but almoſt and comparatively nothing, it is of it ſelf and abſolutely ſomething; and we know not at what period of time any child firſt comes to the uſe of reaſon, and therefore neither can we tell when God will impute their follies; and when he does not impute their follies to damnation, it may be he will impute them ſo far as to cauſe a ſickneſſe or an immature and a haſty death. And therefore Parents and Tutors can never diſcharge their duty but by a coercion and ſtrict reſtraint of children, from the very firſt beginning of their being capable of laws, of the laws I mean of their parents, and even before that to reſtrain them from the material parts of any evil, even from evil words which they underſtand not. For when they once have learnt the ſound they will quickly perceive the ſenſe: and although we account their infant malices pretty and ſportive, yet becauſe we know not from what an early principle they come, nor how ſoon God will impute them, nor whether they will tend, nor what impreſſion they leave, we ſhould betimes exerciſe our legiſlative; and it is God's great mercy to children that they can underſtand fear as ſoon as they can learn to ſin, that their evil company and evil inclinations may not prevent the diſcipline of the parents, but that God and the good things of his law may get the firſt poſſeſſion. And he that will let his children alone till they have φρόνημα σαπρὸν, *animum conſilio ac ratione firmatum, a fixed and ſettled judgement*, ſhall find evil habits fixt and permanent as the foot of a rock, and that good counſel will be too late, too eaſy a remedy. The ſumme is this; So long as they are ignorant, that is, ſo ignorant that they know not how to deliberate ſufficiently to avoid a ſin, ſo long their evil is not imputed, but together with their reaſon begins their vertue or their vice.

Epiſt. 57.

Cicer. pro Cluent.

7. 2. The ſecond ſort of ignorance is *concomitant*, that is, ſuch which is really and actually conjoyn'd with the cauſe of the action, but it ſelf is not the cauſe; for if the man were not ignorant, he would doe the thing nevertheleſſe. Thus the boy that flung a ſtone at a bird, and hit his cruel ſtepmother whom he knew not to be there, ſaid he did not then deſign it, but the ſtone was well thrown. He that ſhoots an arrow at a ſtag and hits his enemy whom he reſolved to kill when he could well doe it, but knew not at all that he was in the buſh, hath an ignorance and a malice at the ſame time; and here the queſtion is which prevails, the ignorance to excuſe, or the malice to condemn. To this I anſwer, that the ignorance excuſes that action, but not that man. He is not a murderer in that ſhooting, nor in the counſels and deliberation of that action; but for his mind and his malice diſtinct from that action, he is proportionably guilty. But if the man have no malice to the unfortunate man that is kill'd, then he is intirely innocent, if his ignorance be innocent. The mind of the man is, and the action is; and if the ignorance were invincible and irremediable, then there is innocence on all parts. *Non conſentiunt qui errant*, ſaith the law. For there is in this concomitant ignorance the ſame reaſon as in the antecedent, ſo far as relates to that event, though not as to that action: the action was indeed voluntary and not procur'd by ignorance, but that event was; and that being the thing onely in queſtion, is to be accounted for, juſt as thoſe actions which are wholly produc'd by *ignorance antecedent*.

l. 15. ff. de juris.

l. Divus. ff. ad leg. Cornel.

I deny

8. I deny not but the laws of wiſe Republics have principally regarded the mind and Counſel of him that ſin'd, and that therefore the laws of the *Romans* under their Chriſtian Princes did profeſſe to follow the law of God in the matter of involuntary murder, and ſo did the *Lombards* and the *Viſigoths*; yet ſometimes this chance-medly was puniſh'd by a leſſer puniſhment: ſo we find in the laws of the *Thuringians*, *Qui nolens ſed caſu quodam hominem vulneraverit vel occiderit, compoſitionem legitimam ſolvat.* If a man unwittingly wounds or kills a man, *ſi telum fugit potius quam jecerit*, as *Cicero* expreſſes the inſtance, if his arrow or weapon ſlipt from him, rather then was flung, he ſhall not be put to death; but yet neither ſhall he wholly eſcape, but muſt pay a fine appointed by law. And there is ſome reaſon for this. 1. Becauſe the law muſt require the life and bloud of every of her citizens from whom it is taken, and the external event, of which ſhe is the moſt competent judge, muſt as well as it may be repair'd. But 2. although it may appear that the event was not intended, yet it cannot ſo well appear whether the man did uſe all that diligence and precaution which wiſe and good men ought to doe to prevent miſchiefs. And 3. ſomething is to be indulged to the injur'd perſon, ſome conſideration had of the grief and loſſe and the paſſion of the relatives of the ſlain perſon. And upon theſe conſiderations God was pleaſed to appoint ſanctuaries for ſuch perſons; which in true ſpeaking is but a juſt remedy for an unjuſt calamity, and ſuppoſes that ſomething was permitted in favour of the relatives of the unhappy man that died, ſomething, I ſay, which yet was not always deſerv'd of him that was in danger to ſuffer it.

l. 5. Epiſt.

9. 3. The third ſort of ignorance is the worſt, it is that which is *vincible* and voluntary, that is, procur'd by the will, is not the prime cauſe of it's actions but the effect, brought in on purpoſe to make way for an eaſy miſchief with a colour and excuſe. Of this there are two noted and diſcernible degrees: *An ignorance craſſe* and dul, and introduc'd by negligence voluntary and obſerved more or leſſe; and *an ignorance affected*, that is, choſen and delighted in, to ſerve evil purpoſes. Now concerning theſe degrees of this criminal ignorance it is true of them both that they bring guilt upon the head of the ignorant, according to their ſeveral proportions: but concerning the actions themſelves which are acted by men in that ſtate of ignorance and diſorder, there is ſomething of particular conſideration. For we find our Bleſſed Saviour praying for pardon for his perſecutors upon this very inducement: *Father, forgive them, for they know not what they doe*; that is, they doe not now know, for they are blinded and are in a ſtate of ignorance: but that it was vincible and voluntary appears by thoſe words of Chriſt, *If ye were blind, ye had not ſinn'd; but now ye ſay that you ſee, therefore your ſin remains*; and *having eyes they ſee not*, that is, they would not ſee, they did it ignorantly, and they would not cure their ignorance, for it was evident that Chriſt ſaid and did enough infinitely to convince them that he was the Meſſias. So alſo S. *Paul*'s ignorance was very culpable, when in zeal and rage he perſecuted the Church of God; but yet this ignorance leſſen'd the malice of the effect, and diſpos'd him greatly towards pardon. Upon theſe conſiderations, it is a worthy inquiry into that effect or influence which proceeds even from a criminal ignorance and undiſcerning eſtate, and what it can operate towards pardon. The queſtion then is, whether what is done by perſons that know not what they doe, when that diſability to know is procur'd by themſelves, either by voluntary

Luke 23. 34. Acts 3. 17.

John 9. 41.

1 Tim. 1. Gal. 1.

tary negligence, or malicious purpoſe, is a ſin as great as if it were done knowingly.

Queſtion.

10. The caſe is this, *Marcus Bibulus* falls frequently into drunkenneſſe; when he is drunk he fights, and fornicates, and ſteals, and does (as it happens) all manner of impiety. *Does his drunkenneſſe excuſe, or does it extenuate, or does it aggravate his fault?*

11. The Greeks call'd theſe things παροινίας, that is ἡ ἐκ τοῦ οἴνου ὕβρις καὶ οἱαδήποτε ἁμαρτία, *Contention and every miſchief that comes from wine*, ſaith *Heſychius*; which when a man hath obſerved to be conſequent to his intemperance, or hath been foretold of it by laws and wiſe perſons, he may juſtly fall under the ſentence not onely of drunkenneſſe, but of homicide, or inceſt, or whatever happens to be the vile daughter of ſo diſgrac'd a Mother. Drunkards are very often proud and quarrelſome: and therefore to that of *Solomon*, *Look not upon the wine when it is red*, *Rabba* ſaith, *Ne ſpectes vinum cujus finis eſt ſanguis*, *Look not upon the wine whoſe end is bloud*: and *Euſtathius* ſaith that the nurſes of *Bacchus* were painted κατέχουσαι χερσὶν αἱ μὲ ἐγχειρίδια, αἱ δὲ ὄφεις. τοῦτο δὲ πρὸς αἴνιγμα τοῦ καὶ θηριώδεις καὶ φονικοὺς εἶναι τοὺς μεθύοντας, *having ſnakes and daggers in their hands, to ſhew that drunkards were beaſtly and bloudy*. And therefore if ſuch perſons could have impunity, there were no ſafety for the lives of innocent men, or the chaſtity of modeſt women. But they neither have, nor have they reaſon why they ſhould. Οἱ γὰρ μεθύοντες καὶ πράξαντές τι κακὸν ἀδικοῦσι. Τῆς γὰρ ἀγνοίας αὐτοί εἰσιν. ἔδει δ' ἴσως οὐ γὰρ αὐτοῖς μὴ πίνειν τοσοῦτον, ὥς γ' ἀγνοήσαντας τύπτειν τὸν πατέρα, ſaid *Ariſtotle*; *They that being drunk doe evil, are guilty of the injury. Becauſe they are cauſes of their own ignorance: for they might have abſtain'd from that exceſſe which caus'd them ignorantly to ſmite their Father. Pittacus* by a law caus'd a double puniſhment to be inflicted upon drunkards, one for the cauſe, and the other for the evil effect. The ſame alſo ſeems to be the ſenſe of *Plato* both in his firſt and in his ſixth book of Laws: but generally all the interpreters of *Ariſtotle*, the old Philoſophers, the Mahumetans and the Chriſtians and the Heathens, are perfectly of this perſuaſion, that the ſins they doe in their drunken fit are perfectly to be imputed to them. To this purpoſe is that of *Cicero*, *Nam qui ſe propter vinum aut amorem aut iracundiam fugiſſe rationem dicet, is animi vitio videbitur neſciſſe, non imprudentiâ. Quare non imprudentiâ ſe defendet, ſed culpâ contaminabit*, He that with wine or anger or luſt looſes his reaſon, cannot pretend ignorance or want of knowledge for his excuſe, for by his own fault he is polluted. And this is the ſenſe of the Doctors of the Church. S. *Baſil* ſaies drunkenneſſe is αὐθαίρετος δαίμων· ἑκούσιος μανία, ſo S. *Chryſoſtome*; *voluntaria inſania*, ſo S. *Auſtin*; αὐθαίρετος μανία, ſo *Iſidore Peluſiot*: *A voluntary Devil, a choſen madneſſe, a ſpontaneous fury*. And the very ſame words are us'd by *Seneca* and *Ammianus Marcellinus*. And therefore the ſinning man muſt not excuſe him by his ſtupidity, and blame the wine, but himſelf onely; as *Callicles* in the Comedy convinc'd *Dinarchus* when he pray'd him to give him pardon,

Gemara Sanhedrin cap. 8. Ad Iliad. ξ.

Moral. l. 1. ad Eudem. c. 34. & Ethic. ad Nicom. l. 3. c. 3, & 4. Vide etiam Politic. 2. cap. ult. & Rhetor. 2. cap. 27.

Averroes in l. 3. Ethic. c. 5.

ad Herennium 2.

Trucul. Act. 4. Scen. 2.

Quod animi impos vini vitio fecerim;

he was not himſelf when he did it, it was his wine not he. The old man anſwer'd him,

——non placet
In mutum quippiam conferri quod loqui non poteſt. Nam vinum ſi
Fabulari poſſit, ſe defenderet: non vinum moderari,
Sed vino ſolent qui quidem probi ſunt: verum
Qui improbus eſt, ſive ſubbibit, ſive adeo caret temeto,
Tamen ab ingenio eſt improbus.

Blame not the wine; for wine does not govern a good man, but a good man the wine: But he that is wicked is wicked from within, whether he drinks or no. By theſe ſayings of wiſe men we perceive that they held not the drunkard innocent even in thoſe vileneſſes which he did in his drunkenneſſe; and their reaſon was Philoſophical, The effect from a voluntary cauſe is to be imputed to the firſt principle.

12. But Commonwealths have another intereſt to ſerve; they are to ſecure the lives and good things of their citizens, and therefore they are by all means to effect what is neceſſary: and if drunken miſchiefs were unpuniſh'd, men might pretend drunkenneſſe for an excuſe, and make it really to be the warrant of their licentiouſneſſe, their rapine, their luſt or their revenge.

Aulul. Act. 4. Scen. 10.

Nam ſi iſthuc jus eſt, ut tu iſthuc excuſare poßies,
Luce clarâ diripiamus aurum Matronis palam;
Poſt id ſi prenſi ſimus excuſemus ebrios
Nos feciſſe amoris cauſâ: nimis vile'ſt vinum atque amor,
Si ebrio atque amanti impunè facere quod lubeat, licet,

ſaid old *Euclio* to *Lyconides*. If drunkenneſſe may be our excuſe, let us goe and drink drunk that we may rob the Matrons in the ſtreets. And *Manuel Palaologus* tells of one that had a mind to be reveng'd and put ſome affront upon a great man; and becauſe he durſt not when he was ſober, he drank himſelf into an impudent fierceneſſe, that he might firſt have *boldneſſe* and then, as he hop'd, *impunity*. And therefore there may be great reaſon why the Civil laws of any Nation ſhould puniſh the evil effects of drunkenneſſe not onely for the evil mothers ſake, but for the ſecurity of the citizens.

Orat. 3.

13. But in Theology and in the juſt eſtimate of things in order to Conſcience we are to ſpeak and to proceed with ſome little difference. For if it be ask'd concerning the drunkenneſſe, or concerning the man, there is no peradventure but he is for theſe evil effects the worſe man, and the drunkenneſſe is alſo the greater crime. The drunkenneſſe makes the injury or the murder leſſe criminal then if it were done with actual reaſon and choice, but theſe make the drunkenneſſe more intolerable and criminal. The man in chuſing drunkenneſſe with or for theſe effects is much the worſe man; but the crime is the voluntary drunkenneſſe, not the involuntary rage and injury. And this appears upon theſe reaſons.

14. 1. Becauſe by how much more the ſenſe and reaſon is depraved, by ſo much the leſſe the man hath pleaſure in his ſin. For if he be wholly mad or ſenſeleſſe, his ſin is wholly uſeleſſe to him, it does him no preſent delight, any more then to a beaſt to puſh with his horns; which therefore is not

not criminal becauſe he cannot reflect upon his own act, he cannot chuſe it for a reaſonable conſideration, he hath no will to entertain it. But if he be not ſo far gone, then there is ſome proportion of guilt, becauſe there is of choice in the ſhipwracks of his reaſon and his will: and therefore *Theodoret* ſaid, Τὸ δὲ τῆς μέθης ἔχει τινὰ μέμψιν κεκεραμένην συγγνώμῃ, Drunkenneſſe hath ſome reproof, and ſome pity; ſome puniſhment, and ſome pardon. And *Arrius Menander* ſaid that *per vinum aut laſciviam lapſis capitalis pœna remittenda eſt*, They that ſin by drunkenneſſe or paſſion may be puniſh'd, but not capitally; the ſame with that in *Stobæus*, Τῷ μέθυσι ἀναμαρτήτως τι προσέχειν. Even in the follies and ſtupidities of drunkenneſſe there is ſomething amiſſe beſides the material part. But this is when there is ſomething left by which he can underſtand and chuſe ſomething of the crime. qu. 59. in Geneſ. in l. 6. de Re milit.

15. 2. The miſchiefs conſequent to drunkenneſſe are therefore leſſe moral evils, becauſe they doe leſſe moral miſchief. For no man by his luſt acted in his drunkenneſſe is made more luſtfull, or by any act then done is promoted towards a vitious habit; for he knew not what he did, and remembers it not: it is like *Lot*'s inceſt, no more known after then before, and therefore it leaves no ſediment or lees behind it; which ſhews it to have more natural vileneſſe then moral, and therefore is nearer to pardon.

Et cauſa juſta eſt, ſiquidem ita eſt ut prædicas,
Te eam compreſſiſſe vinolentum virginem. Aulul. Act. 4. Scen. 7.

If the yong man was drunk when he lay with her, he hath ſome excuſe, that is, as to his luſt; but that is an aggravation of his drunkenneſſe, and he is not the more acquitted, when the aggravation of his ſin and puniſhment is onely plac'd upon the right cauſe.

16. 3. If the conſequent miſchiefs of drunkenneſſe were formally thoſe ſins which materially they are, that is, if they were properly guilty of all that they ignorantly doe, then it would follow that becauſe murder is worſe then drunkenneſſe, and yet that murder was involuntary, ſome action that is involuntary would be more malicious then that which is choſen. If it be replied that thoſe conſequent acts are choſen becauſe the cauſe of them is choſen, according to what is diſcours'd in the 4th Rule of this Chapter; I anſwer, that this is true if drunkenneſſe were not an accidental cauſe of them: but theſe effects being but contingent to drunkenneſſe, and the effect of ſome other evil principle, which then prevails when by drunkenneſſe the mans guards are called off, therefore they cannot be intirely attributed to drunkenneſſe; and therefore if a man be ſurpris'd with drink, or is advis'd to it as to a medicine, if he falls into ſuch conſequent diſorders, it would be hard to damne this man as a murderer or as an inceſtuous perſon, when he is ſo neither by his preſent, nor his antecedent choice. Therefore it is that *Libanius* ſaies that one who hath grievouſly offended another πολλάκις ἀνδρὶ συγγνωστὸν ἀπῆλθεν εἰς οἶνον καταφυγών, *oftentimes is not puniſhed when wine was his excuſe*; and the Scholiaſt upon the βασιλικὰ ſaies that he that kills a man ἀπὸ μελέτης *with deliberation* is ἀσύγγνωστος *not to be pardon'd:* If he does it by chance, he is free; but if by drunkenneſſe, he was by the *Roman* law baniſh'd for five years: and thus juſtice is preſerved on all hands, that the drunkenneſſe ſhould be puniſh'd more then drunkenneſſe, and the murder leſſe then murder. For that is the worſe for having ſuch a daugh- Declamat. 21.

ter, but this is more pardonable for having ſuch a Mother.

17. But if the drunkenneſſe be but imperfect, if the conſequent crimes be remembred and delighted in afterwards, (for that is a certain indication the ſtupidity was not extreme, nor equal to an excuſe) then

Μισῶ μνήμονα συμπότην, Πεῤῥικλέ·

ſuch a drunkard is alſo all that which he acts and profeſſes in his folly: a remembring drunkard, as he is but an ill companion, ſo if he falls into the horrid conſequents which too often are the puniſhments of intemperance, hath no excuſe. But if he choſe drunkenneſſe on purpoſe that he might have impudence enough to doe a miſchief, he committed the ſin beforehand, and was before he acted it guilty before God; and when he hath acted it, he is alſo guilty before men *. But unleſſe it be in theſe caſes, the actions done by him that underſtands not what he does are as the actions of a mad man or a fool. The ſin was done before, and the miſchief and the puniſhment doe follow: but the guilt is in the cauſe, not in the effect that is involuntary; though proceeding from a cauſe that was indeed voluntary, but *not univocal and proper.*

* See Rule 4. of this Chap. Num. 2.

18. The ſenſe of this queſtion thus explicated agrees with the doctrine of the Fathers, who in the inſtance of *Lot* declare him criminal onely as to his drunkenneſſe, not to his inceſt. So *Origen*, S. *Chryſoſtom*, S. *Auſtin*: and S. *Ambroſe* gives this account of the whole queſtion; *Sanè diſcimus vitandam ebrietatem*, &c. *We learn that drunkenneſſe is to be avoided, by which we are brought to that evil ſtate of things, that we cannot beware of crimes. For thoſe things which being ſober we avoid, when we are drunk we ignorantly commit.* And a little after; They who have been too free in drinking wine, know not what they ſpeak, they are like men dead and buried: *ideóque ſiqua per vinum deliquerint, apud ſapientes Judices veniâ quidem facta donantur, ſed levitatis damnantur authores, Therefore what vileneſſes they commit in their wine* (meaning when they know not what they doe) *for the deeds themſelves ſo ignorantly committed they find pardon amongſt wiſe Judges, but for their temulency a condemnation.*

Homil. 5. in Geneſ. Homil. 44. in Geneſ. lib. 2. contr. Fauſt. Manic. cap. 44. lib. de Patriarch. cap. 6.

19. The reſult of theſe diſcourſes is this. The vileneſſes which are done by drunken and ſtupid perſons unwittingly, are not of the ſame kind of which naturally they are and would be if the actors were ſober: they are not the crimes of murder or luſt or inceſt reſpectively, but circumſtances of great horrour aggravating the drunkenneſſe, and deeply condemning the man. And yet, if the drunkenneſſe be not extreme, I mean the ſtupidity and ignorance, if that be not ſuch as to take away wholly the uſe of reaſon and moral choice, all the remaining portions of reaſon doe in their proper degree make the imperfect drunkard guilty of other perfect crimes, even of whatſoever he then ſhall act; and they ſhall for their own degrees of remaining choice be imputed to him as certainly as the drunkenneſſe.

20. The ſame is the caſe of *Inconſideration* and *Oblivion*, whoſe effects are innocent upon the ſame accounts and no other. If they come in upon a negative principle, that is, begin and proceed upon a natural deficiency and an unavoidable cauſe, that which is forgotten, or that which is done by forgetfulneſſe

getfulneſſe muſt be amended and repair'd as well as we can; but by a preceding morally-diligent care, and an after-revocation, nolition or amends, it may be kept innocent. This onely thing is to be interpos'd, that if by the precontract of a vitious habit there is ingenerated in our ſpirits and exteriour faculties ſuch a promptneſſe and facility of ſinning, that many of the acts of ſuch a habit are done without advertency, as in vile and habitual ſwearing, every ſuch action though paſſing without notice is criminal, becauſe it is the product of the will habitually depraved; and there is no other cauſe why the actual conſent of the will is not at it, but becauſe it was not requir'd, but preſum'd, and taken without diſpute. A yong Luteniſt diſputes and contends for every ſingle touch of a ſtring: but when he hath made it eaſy and habitual, he reſolves to play a ſet of leſſons, and every ſtroke is voluntary, though every one is not now actually conſider'd.

Queſtion.

21. To this §. of Ignorance belongs the queſtion concerning Fraud and Guile. For if another man coſens and abuſes my underſtanding, he places me in ignorance; and then it is worth our inquiry, *What morality or what obligation there is in thoſe actions which are done by us ſo abus'd, ſo deceiv'd, ſo made ignorant, and incapable of judging rightly.*

22. The anſwer relies upon the ſame grounds as formerly, with this advantage, that he who is deceiv'd by the crafts of another, hath moſt commonly an ignorance that is very innocent; and then if that ignorance be wholly the cauſe of any action, the cauſe is innocent and ſo is the production. And upon the ſame accounts we are to judge concerning the obligation of promiſes and contracts made by perſons in error and deception. 1. If the error be concerning the ſubſtance of the thing contracted for, the contract is naturally invalid, and obliges not at all. If *Titius* buy a horſe, and *Caius* ſend him a Mule or an Oxe, there is nothing done, *Titius* hath made no bargain at all. If I buy a man-ſervant, and the Merchant ſells me a maiden dreſs'd in mans apparrel, this makes the contract invalid; I made no bargain for a maid-ſervant, but for a man. When *Jacob* married *Rachel*, and lay with *Leah*, that Concumbency made no marriage between them; for the ſubſtitution of another perſon was ſuch an injury as made the contract to be none at all: and unleſſe *Jacob* had afterwards conſented, *Leah* had been none of his wife. 2. If the error and ignorance be not in the ſubſtance of the contract, whatever elſe the error be, the contract is naturally valid, that is, without a new contract and renewed conſent it can ſtand; but if that error was the cauſe of the contract, which if the error had not been would not have been at all, then it is in the power of the abuſed perſon to reſcind the contract, and the fraudulent contractor is in Conſcience bound to recede from all his ill-acquir'd advantages. The reaſon is, becauſe he did injury to his neighbour, and plac'd him in evil diſpoſitions and unaptneſſe to chuſe wiſely, otherwiſe then God and the laws of nations and the common intention of contractors doe intend: and therefore although there was ſo much of the ſubſtantial requiſites as could make a contract naturally valid, yet it was ſo ill, that all laws and intentions and tacit conditions of contractors have thought fit to relieve the abuſed perſon. *Dolo vel metu adhibito, actio quidem naſcitur, ſi ſubdita ſtipulatio ſit: per doli mali tamen*

l. Dolo. 5. C. de inutilib. ſtipulat. & inſtit. de exceptionib. in initio.

tamen vel metûs exceptionem ſubmoveri petitio debet: and the reaſon is given *l. ſi dolo. 5. C. de reſcindenda venditione*; *Si dolo adverſarii deceptum venditionem prædii te feciſſe Præſes provinciæ aditus animadverterit, ſciens contrarium eſſe dolum bonæ fidei (quæ in hujuſmodi contractibus maxime exigitur) reſcindi venditionem jubebit.* In Contracts the honeſty of the contractors is principally to be regarded, and fraud is deſtructive of all honeſt intentions; and therefore the Prætor ſhall reſcind ſuch fraudulent bargains. 3. But if the error was not the intire cauſe of the contract, but that upon other accounts we would have bargain'd, onely we would not have paid ſo great a price, then the bargain is valid, and the Prætor cannot reſcind it, nor the injur'd perſon revoke it; but the Civil law in this caſe did permit *actionem quanti minoris*, that is, an amends for ſo much detriment as I ſuffer apparently by the fraud. If *Caius* ſells to *Mævius* ſheep which he affirms to be ſound, but they are indeed rotten, the law permits not reſciſſion of the bargain, but forces *Caius* to reſtore ſo much of the price as the ſheep were overvalued. And this is alſo the meaſure in the Court of Conſcience. But this is to be underſtood in ſuch caſes where the fault of the vendible commodity cannot be diſcerned by the buyer, and where the ſeller did deceive voluntarily. For in other caſes *Caveat emptor* is the rule of the law, *let the buyer look to it*, and it is alſo the rule in Conſcience. The ſeller muſt not affirm the thing to be without fault, if he knows it vitious and faulty. But neither is he bound to proclaim the faults of his goods, if they be diſcernible. And of this *Cicero* diſcourſes reaſonably, *Num te emere coegit, qui ne hortatus quidem eſt? Ille quod non placebat proſcripſit; quod placebat emiſti. Quod ſi qui proſcribunt villam bonam benéque ædificatam, non exiſtimamur fefelliſſe, etiamſi illa nec bona eſt, nec ædificata ratione; multo minus qui domum non laudarunt: ubi enim judicium emptoris eſt, ibi fraus venditoris quæ poteſt eſſe? Sin autem dictum non omne præſtandum eſt, quod dictum non eſt, id præſtandum putas? Quid vero eſt ſtultius quam venditorem ejus rei quam vendat vitia narrare? Quid autem tam abſurdum, quam ſi Domini juſſu ita præco prædicet, Domum vendo peſtilentem?* Who compell'd thee to buy? The man that ſold it did not (it may be) ſo much as deſire thee. He ſold it becauſe it did not pleaſe him; and becauſe it did pleaſe thee, thou haſt bought it. He that ſets up a bill of ſale and proclaims a houſe fair, and well-built and well-ſeated, hath not deceiv'd thee, though it be neither well-built, nor well-ſeated; becauſe if it be intire for thee to make a judgement, he hath not deceiv'd thee. Much leſſe if he hath not prais'd it. For if all that is ſpoken in the bill is not of neceſſity (viz. in order to the bargain or thy choice) to be verified, much leſſe muſt that be perform'd or requir'd which was not ſpoken. But does ever any man cry ſtinking fiſh to be ſold, or ſay, Come and buy a houſe that hath the plague in it? All this is great reaſon: Onely this is to be added, that ſuch faults as cannot be diſcerned by the buyer, muſt be declar'd, or muſt be allowed for in the price: and the caſe is the ſame, if the buyer be a child, or a fool, or an ignorant undiſcerning perſon; for no man muſt be made richer by the injurie and folly of his Brother. I know that in all the public contracts of mankind, that which all men conſent in is, to buy cheap and to ſell dear: but Chriſtian religion, and the contempt of the world, and the love of ſpiritual intereſts, are ſent from heaven, to cauſe merchandiſe to be an inſtance of ſociety, and not a craft and robbery. 4. If the buyer be deceiv'd, but not by the ſeller, but by a third perſon, and that deception be the cauſe of the contract, the buyer may reſcind the contract if he can; that is, he is not

l. 13. ff. de actionibus empti. in princ.

lib. 3. Offic.

l. in cauſæ. §. Idem Pomp. ff. de minor. & l. item ſi. §. ult. ff. loc.

l. ſi voluntate. C. de reſcind. vend.

not in Conſcience oblig'd to ſtand to it, if he can be quit in law: but he that deceiv'd him is bound to repair his injury if he have ſuffer'd any, or to break the bargain, if the goods be unalter'd. Theſe things have no particular reaſon, but are evident upon the former accounts.

§. 3. *Of Fear and Violence, and how theſe can make an action involuntary.*

RULE VII.

Fear that makes our reaſon uſeleſſe, and ſuffers us not to conſider, leaves the actions it produces free from crime, even though it ſelf be culpable.

1. THE caſe is this; *Roberto Mangone* a poor *Neapolitan* travelling upon the Mountains to his own houſe, is ſeized on by the *Banditi*, a piſtol is put to his breaſt, and he threatned to be kill'd unleſſe he will be their guide to the houſe of Signior *Seguiri* his Landlord, whom he knows they intend to rob and murder. The poor *Mangone* did ſo: his Lord was murder'd, his goods rifled and his houſe burned. The queſtion is, whether *Mangone* be guilty of his Lords death.

2. To this the anſwer is eaſy, that *Mangone* is not innocent; and though he did not conſent clearly and delightingly to *Seguiri*'s death, yet rather then die himſelf he was willing the other ſhould. No man is deſirous in a ſtorm to throw his goods into the ſea, if he could help it, and ſave his life; but rather then looſe his goods and his life too, he heaves them overboard. Μικταὶ μὲν οὖν εἰσιν αἱ τοιαῦται πράξεις· ἐοίκασι δὲ μᾶλλον ἑκουσίοις, ſaid *Ariſtotle*, *Theſe kind of actions are mixt, but they have more of ſpontaneity* and election in them then of conſtraint. No Chriſtian remaining a Chriſtian is willing to offer ſacrifice to *Dæmons*, or to abjure Chriſt, if he be let alone: but he that in time of perſecution falls away, not changing his heart, but denying his profeſſion, this man is not *excus'd* by his fear, but *betray'd* by it. Ἔνια δ' ἴσως οὐκ ἔστιν ἀναγκασθῆναι, ἀλλὰ μᾶλλον ἀποθνητέον, παθόντα τὰ δεινότατα, *There are ſome things to which a man muſt not ſuffer himſelf to be compell'd by any force, but he muſt rather die then doe them.* And becauſe there are ſome things ἃ δὲ τὴν ἀνθρωπίνην φύσιν ὑπερτίνει, *which are inſufferable to humane Nature*, and therefore there is in laws aſſign'd a certain allowance of fear *qui poteſt cadere in fortem & conſtantem virum*, that is, in the caſe of danger of ſuffering the extremeſt evils, and our obedience to humane laws is excus'd in ſuch caſes, becauſe no man is *ordinarily* bound by the laws to ſuffer a greater evil in keeping the law, then is threatned by the law it ſelf to him that breaks them; therefore the law allows an omiſſion of obedience in the fear of the greateſt evils, as I have already explicated *. But in Divine lawes it is otherwiſe, becauſe no man can threaten or inflict on another an evil comparably ſo great as God does on them that break his laws; and therefore the leſſe fear cannot be a reaſonable excuſe againſt a greater; and in all caſes, the fear of man muſt

Ethic. lib. 3. cap. 1.

ibid.

*lib. 3. Chap. 1. Rule 2.

yield to the fear of God. And therefore in the matter of a Divine Commandement, no fear of temporal evil is an excuſe or warranty. Becauſe we are taught to deſpiſe poverty and pain and death, and to doe all this chearfully and glorioufly. And therefore this caſe of Conſcience and it's whole dimenſions are quickly meaſur'd.

3. But this is onely in Negative commandements, for they can never be broken with innocence upon what pretended neceſſity or violence ſoever. But in poſitive Commandements the caſe is not ſo clear, but fit to be more conſider'd: But it will quickly alſo come to an iſſue, if we diſtinguiſh omiſſions from commiſſions. For no man may upon any pretence doe any thing againſt a poſitive Commandement. He may omit to viſit a Chriſtian in priſon, if he fears he ſhall looſe his life in the viſitation, or be threatned with any great calamity; but he may not doe him any injury or oppreſſion to ſave his life and liberty. But I have to this alſo given particular anſwer upon another occaſion. That which I am to adde here is this; There is no peradventure but the obedience to a poſitive commandement, till it be plac'd in it's own circumſtances and requir'd *here* and *now* and *ſo*, will give place to ſo juſt a cauſe of deference and ſtay as is the ſecuring our ſelves againſt a great fear. For where God hath not requir'd us in particular manner to doe a duty, he hath requir'd it in a very particular manner to preſerve our ſelves. But when the caſe is ſo, that the particular is requir'd, no fear of man can hinder us. For in all things God is to be preferred. And therefore it is ſo rarely well order'd that unleſſe it be in extraordinary caſes, as the Apoſtles preaching the Goſpel, their open confeſſions of faith, their declaring againſt the religions of the world at that time, for which they had ſpecial commands, and were to doe them and not to fear the fear of men, there is ſcarce any poſitive law of God but either it may be perform'd by an internal ſuppletory, by a deſire and willingneſſe and endeavour, or elſe will be ſufficient to be done in the article of death, that is, then when we need not fear the worſt that man can doe unto us. Thus it is in the ſuſception of the Sacraments; from the actual ſuſception of which by a great and juſt fear if we be frighted, we cannot be hindred from the deſire and ſpiritual and moſt effective ſuſception of them: and from the actual if we be by a juſt fear delayed (though the caſe cannot often happen) yet it is generally ſuppos'd that if they be done before our death, the commandement is obeyed, if the delay was not on our part; and at our death no new fear of death can be a juſt excuſe. However, if it or any thing elſe be poſitively and determinately requir'd in circumſtances, we muſt not be afraid of them that can onely kill the body; or if we be, the fear and the omiſſion are both criminal, and this is not excus'd by that.

ubi ſuprá. & lib. 2. Chap. 3. Rule 11.

4. But if in theſe or any other caſes the fear be a ſurpriſe, ſudden, and violent, and impetuous, that is, ſuch that our reaſon is invaded and made uſeleſſe, ſuch as by a natural effort diſorders all our faculties, ſuch as that of *Arachne* in *Ovid*,

Quid mihi tunc animi miſera fuit? anne quod agnæ eſt
Siqua lupos audit circum ſtabula alta frementes?
Aut lepori, qui vepre latens hoſtilia cernit
Ora canum, nullos audet dare corpore motus?

ſuch a fright as a hare or lambe are in when they are purſued by dogs and foxes,

Occupat

Occupat obſeſſos ſudor mihi frigidus artus, lib. 3 Metam.
Cæruleæque cadunt toto de corpore guttæ,

when nature is in a lipothymie, and our ſtrengths are made extravagant, when we can doe any thing in flying and nothing at all to conſider; then our underſtanding cannot deliberate, and then our will does not conſent, and then the effect is pityable but not crimin al, but the fear it ſelf poſſibly may be both. For ſometimes our fear may be ſo great, that it fills all our faculties, and then there cannot be any deliberation; for that muſt be at leiſure, and muſt look upon two objects. *Statius* well deſcribes this kind of fear in the ſimilitude of a hunted ſtagge.

..... qualis cum cerva cruentis lib. 5. Thebaid.
Circumventa lupis, nullum cui pectore molli
Robur, & in volucri tenuis fiducia curſu,
Præcipitat ſuſpenſa fugam, jam jamque teneri
Credit, & illuſos audit concurrere morſus:

ſhe hath no courage, no confidence, no hope of any thing; ſhe dies if ſhe ſtayes, but ſhe cannot ſtay to conſider ſo long; and when ſhe runs, ſhe dies too, and ſhe hears the wolf at her ear, and ſees him with her eye, and feels the teeth in her heart, and dies with fear. In ſuch caſes as theſe we are as men without reaſon, and therefore to be judg'd accordingly. I have heard of a Trouper who in the late ſad warres of *England* being alarm'd, was ſo affrighted that he bridled his Comerade inſtead of his horſe: and in the laſt inroad which the *Turks* made into the Empire, a *German* carrier was ſo affrighted with the noiſe of *Turkiſh* horſes coming, that he knew not how to make uſe of his own to fly away, but deploring his condition that his horſe being loaden could not run faſt, had not the reaſon left him, though he had time, to throw off his pack, but ſtaid in that amazement, till the priſoner of fear became a ſlave to the *Turks*. What a man does in ſuch a caſe, no equal eſtimator of things will impute to choice or malice. He that flies from a lion purſuing him, and in his affrightment runs into a River, is not criminally guilty of his own death. He runs into one death before another, but prefers it not: for if he were in the ſame fear of drowning, he would leap aſhore though a Lion did ſtand there expecting of a prey.

5. Concerning degrees of fear which are leſſe, ſuch which leave us in a power to conſider and deliberate, they may leſſen the malice of the crime to which they drive, but cannot make the fact innocent. He that is taken by a Tyrant and an unjuſt power and put amongſt the troups, is not innocent though in that fear and againſt his will he fight againſt his Prince. Ἐς πόλεμον ἐθέλουσι (εἰσὶ γὰρ ἑκόντες τοὺς ἀναγκασθέντας φόβῳ καλεῖν δεῖ) ἥλθον, ſaid *Dio Cocceius*, *They went willingly to warre, if at leaſt they may be ſaid to be willing who are conſtrain'd by fear.* It is an unwilling willingneſſe, and therefore it is a ſin almoſt againſt their will. For in deſpite of ſuch a conſtraint, a man may uſe his liberty; as *Lucian* ſaies of the yong man, Dial. Meretric. ὃς οὐ νῦν γεγάμηκεν, ἀλλὰ καταναγκαζόμενος καὶ βιαζόμενος ἠρνήσατο, *He did not marry, but though his Father forc'd and compell'd him, yet he refus'd.*

6. The ſame is the caſe of Superſtition, which is an exceſſive and inordinate fear in the matter of religion. If the fear be ſupreme and diſtracting, the effects of it are very pityable; but criminal onely in that degree in which

it

it is vincible and can be ſubdued by reaſon. When *Michael Stifelius* a *German* in *Luther*'s time had affrighted the people with a confident and terrible prediction of the day of Judgement within a few days to be revealed, the poor affrighted people left off their daily labours, and took care of no duty for this life. This omiſſion at another time would have been very criminal; but now their ſuperſtitious fear did alleviate it, if not wholly take it away. But in this there is nothing particular, ſave onely that the cauſes of fear in this caſe are worſe then in other things; but the effects themſelves are not commonly very bad.

7. But this paſſion of fear hath in it yet more difficulty in relation to humane contracts and obligations, which can be evacuated and declar'd never to have oblig'd if they commenc'd with fear. For upon this account ſome pretend contracts of marriages, abſolutions from Eccleſiaſtical cenſures, teſtimonies in teſtamentary cauſes, vowes, donations, ſentences, reſignations of Benefices, conſtitutions of Proctors, election to offices, and oaths of obligation to men, and promiſes, not to oblige, if the promiſer or contractor was conſtrained by fear.

8. But to all theſe the anſwer will be the ſame, for they are all diſcernable by the ſame reaſon. If the fear was ſuch that it might affright a wiſe and a conſtant perſon, the law judges the contract to be null, and not to oblige in law, which is the meaſure of contracts and legal obligations. But although the law declares many particular caſes, in which the fear does annul the contract, and in ſuch caſes ordinarily there needs no further inquiry; yet becauſe many caſes happen in which the law hath not regularly declar'd her ſentence, by that meaſure which the law goes by, we may without trouble determine our ſelves. The rule therefore is this; When any evil threatned is ſo great, that to ſuffer it is more intolerable then to doe the thing to which you are compell'd, there the fear is ſuppos'd great enough to nullify the contract. If a rich perſon be threatned, that he ſhall be forc'd to pay a hundred pound, or marry the oppreſſors daughter; if he promiſes to marry her he is oblig'd, and that fear and that threatning ſhall not prevail to evacuate his promiſe. Becauſe he that ſo threatens intending but an evil that is very tolerable, if the marriage be of worſe miſchief, he did not chuſe it out of fear; for he that does ſo, chuſes the leſſe evil to avoid a greater, not a greater to avoid a leſſe: ſo S. *Auſtin* obſerves, *Neque enim dici ſolet quiſpiam voluntate feciſſe, ſiquid fecit invitus; quanquam ſi ſubtiliùs advertamus, etiam quod quiſque invitus facere cogitur, ſi facit, voluntate facit: ſed quia malit aliud, ideo invitus, hoc eſt, nolens, facere dicitur*; and *Simplicius* to the ſame purpoſe, *quia licet inviti agamus, tamen ſic agere eligimus*, It is indeed againſt our will; but when things are in an evil ſtate, we chuſe the leaſt. If therefore he chuſes that which he ſaies is a worſe evil, he cannot pretend it is for that fear; and conſequently it muſt be upon ſome other motive, ſomething of his own; and if it be, it will verify the contract. *Titius* finds *Caius* at an advantage with a Watch & a Ring about him of no great value; he threatens to take them from him, unleſſe *Caius* will promiſe the next day to bring him twenty talents. *Caius* promiſes it, and therefore is oblig'd, for he cannot ſay, he was compell'd. For no leſſe violence can conſtrain us to ſuffer a greater, becauſe that is far more eligible then this. And therefore the law calls nothing a juſt cauſe of fear, but the fear of the greateſt evils, as death, torment, diſmembring, intolerable diſgrace; that is, ſuch things

libr. ſingul. ad Marcellin. de Spir. & liter.

in Epictetum.

things which to avoid a man would ſuffer any evil that is leſſe. Now becauſe in contracts we intend ſome advantage to our ſelves, real or imaginary, and in contracts effected by a great fear we can deſign none but the avoiding of a greater miſchief, the law and right reaſon wholly attribute it to fear, and therefore annul the contract. *Martial*'s caſe is pertinent to this inquiry,

Quod ſi me tonſor, cum ſtricta novacula ſupra eſt, lib. 11. Ep. 59.
Tunc libertatem divitiaſque roget,
Promittam: nec enim rogat illo tempore tonſor;
Latro rogat: res eſt imperioſa timor.
Sed fuerit curvâ cùm tuta novacula thecâ,
Frangam tonſori crura manuſque ſimul.

If a Barber when the raſor is upon my throat contracts with me for twenty pound, if I fear he will cut my throat if he be denied, I promiſe to him as to a thief, with whom whatſoever contract I make in my intolerable fear, no law of man does verify it. But *Martial* as to his inſtance was no good Caſuiſt.

9. For if it be inquir'd whether I am oblig'd in Conſcience to keep my promiſe to a thief or a *bandito*, which I made to ſave my life; I anſwer that I am. Becauſe he being an outlaw and rebell againſt all Civil laws, and in a ſtate of warre, whatever you promiſe to him, you are to underſtand it according to that law under which then you are, which is the law of Nature and Force together. So that you cannot be guarded by the defenſative of the Civil laws, nor is your contract under it's guard and conditions. In contracts under the protection of Civil laws, we are to goe by it's meaſures, and the contract is good or bad accordingly. But when we have no meaſures but what we can get of our ſelves, our contracts are to begin and end between our ſelves, and by our own proportions. But in law no man is ſuppos'd to have conſented, but he in whoſe power it is to diſſent. *Si vis ſcire ut velim, effice ut poſſim nolle:* and every contract muſt have ὄρεξιν κατεξούσιον, as *Damaſcen* calls it, *a deſire free from all bond.* Seneca. Ἀυτεξούσιον ὄρεξιν, ὅ, τι μὴ ἐξ ἀνάγκης. If there be force and a ſad neceſſity in it, it is a calamity rather then a contract; and therefore the laws intend to defend and reſcue us from the oppreſſion.

10. I am to adde one caution, That no reverential fear, let it be never ſo great, and the perſon never ſo timorous, ſo that the uſe and miniſteries of reaſon be left, can excuſe a ſin, or nullify a contract. The reaſon is given by *Ariſtotle*, Ἡ μὲν ἐν πατρικὴ πρόσταξις οὐκ ἔχει τὸ ἰσχυρὸν, οὐδὲ τὸ ἀναγκαῖον, *The Fathers Empire hath in it no violence and no coaction.* And *Heliodorus Pruſæus* in his paraphraſe ſaith the ſame thing, that the commands of Parents, or ſuch whom we reverence and fear, τῷ ἰσχὺν οὐκ ὄντων μεγάλην ἔχειν ὥστε βιάζεσθαι, *have not ſuch force as to compel:* not but that we are to obey; but that what we doe out of reverential fear to them is not compell'd, but voluntary and choſen. Ethic. lib. 10. c. ult.

11. What is ſaid of Fear, is not true of other paſſions, *luſt* and *anger*, or whatever elſe is productive of thoſe effects which uſe to make men aſham'd, and diſorder all their intereſts. 1. Becauſe theſe paſſions are ſeldome of that nature and degree of violence as to take away all powers of deliberation, and therefore they are but ſeldome fit to be pretended in excuſe of any action.

action. 2. They are commonly the true Mothers, the univocal parents of their productions, otherwiſe then it is in fear and drunkenneſſe and ignorance; for theſe produce things of a nature different from their immediate principles, as drunkenneſſe produces effects of anger, of luſt, &c. that is, it is the occaſion of them, not the proper Mother. But luſt produces luſt, and anger ſends forth angry words, and ſpitefull actions, and reſolutions of revenge. 3. The products which come from theſe paſſions are ſo very far from being rendred involuntary, that by theſe paſſions they are made moſt delightfull, and without them they could not pleaſe at all. 4. Whenever they prevail to any violence or extremity of degree, it is by an increaſing will; not by weakneſſe and natural infirmity, but by a moral ſtate of infirmity, that is, a ſtate of ſinfulneſſe. 5. It is not in theſe as it is in fear, or vincible ignorance, that what is voluntary in the cauſe may be involuntary in the effect: but in theſe paſſions and temptations, the Mother and the daughter are choſen; not the one directly and the other by interpretation, but both of them properly, directly and immediately. For theſe reaſons the caſe of theſe paſſions is curiouſly to be diſtinguiſh'd from the precedent. But when theſe paſſions doe come to extremity, although their proper acts are not the leſſe ſins but the greater, as an act of anger is the more deviliſh by how much the paſſion is the more extreme; yet if any æquivocal and contingent effects be produc'd, as if in the violence of luſt a child be run over and hurt, or any thing that is not natural to that paſſion, nor intended by the man, then according to the degree of the ecſtaſy and tranſport by the paſſion, the contingent effect may be leſſen'd in it's malig-
Declamat. 22. nity. And in this ſenſe is that of *Libanius* to be underſtood; or elſe it is not true, that injuries are very often to be remitted if the man hath drunkenneſſe for his excuſe, ἢ θυμὸν, ἢ ἀφροσύνην, ἢ ὕβριν, ἤ τι τοιοῦτον, *or anger, or forgetfullneſſe, or arrogance, or any ſuch like thing*. Like to this is that of *Arrius*
ubi ſuprà. *Menander*, Capital puniſhments are not to be inflicted *per vinum aut laſciviam lapſis, to them that offend by the follies of drunkenneſſe or the violence of luſt*.

——— *Et vino tortus, & irâ:*

Wine & rage are like two racks, & compel men to open ſecrets. Now when the caſe is ſo that the effect is æquivocal; as it is in drunkenneſſe in many inſtances, and in other paſſions ſometimes, there onely there is ſome diminution or excuſing of the crime. But the Ancients gave too much liberty, and an indifferent ſentence in theſe caſes, becauſe wanting the Chriſtian meaſures they underſtood no better.

CHAP.

CHAP. II.

Of the Finall Cauſe of Humane actions; and it's influence or Cauſality of Good and Evil.

RULE I.

In every good action the means and the end muſt be Symbolical: ſo that, 1. a good action done for an evil end, and 2. an evil action done for a good end, are alike Criminal.

1. THE firſt part of this Rule is in the expreſs words of our Bleſſed Lord, *Take heed that you give not your alms before men to be ſeen of them.* Even alms, which are our righteouſneſs, and ſo rendred both by the Arabick and the Vulgar Latin, yet if done to vainglorious purpoſes, are good for nothing, but are directly acts of vainglory. Τῆς δύπτιας σαλπιζομένης ὄφελος ἐδὲν, ſaith S. *Baſil*, The noiſe of a trumpet ſpoils our alms. For from the end every action is qualified; and an indifferent action is made good and bad by the end; and that which is ſo already, is made more ſo by a participation of that to which it is deſign'd. For the end changes the nature as well as the morality of the action. So *Ariſtotle*, Εἰ ὁ μὲν τοῦ κερδαίνειν ἕνεκα μοιχεύοι καὶ προσλαμβάνῃ, ὁ δὲ προσπόνεις καὶ ζημιούμενος διὰ ἐπιθυμίαν· οὗτος μὲν, ἀκόλαστος δόξειεν ἂν εἶναι μᾶλλον ἢ πλεονέκτης· ἐκεῖνος δ', ἄδικος, ἀκόλαστος δ' οὔ. He that commits adultery for gain is covetous, not laſcivious: but he that ſpends his money and ſuffers loſs for his luſts ſake, he is the wanton. And therefore God and all wiſe men regard not the exterior action in their accounts of vertue, but the manner and purpoſe of doing it. *Quoniam quidem non in facto laus eſt, ſed in eo quemadmodum fiat. Eadem res ſi gulæ datur, turpis eſt: ſi honori, reprehenſionem effugit. Amico ægro aliquis aſſidet: probamus: at hoc ſi hæreditatis cauſâ facit, vultur eſt, cadaver expectat.* So *Seneca*. *The praiſe and vertue is not in the thing done, but in the manner of doing it. If we ſpend great ſums of money in our Kitchin, it is ſordid: but if upon publick works, on Colleges and Hoſpitals, on the Poor or upon Religion, it is brave and noble.* He that *viſits his ſick* friend *in charity, does well; but he that ſits by him and watches with him in hope to get a legacy, is a vultur, and watches for the Carcaſſe and the Prey.*

Matth. 6. 1.

Lib. 5. Ethic. cap. 2.

2. Now concerning this, the beſt Compendium of all the Caſes of Conſcience which can relate hither, is, that with hearty ſimplicity we purſue that rule of S. *Paul*, *Whether ye eat or drink, and whatſoever ye doe, doe all to*

1 Cor. 10. 31.

the glory of God: the ſame with thoſe other words of his, for the one illuſtrates and explicates the other, *Whatſoever ye ſhall doe in word or deed, doe all in the name of the Lord Jeſus, giving thanks to God even the Father by him.* Concerning the obligation and full ſenſe of theſe precepts, the following meaſures are our Rule.

Coloſſ. 3. 17.

3. 1. He that in every action that is conſiderable, and fit to be noted and diſcerned, and is diſtinguiſhed by counſels and conſultations, by deliberation and obſervation, does actually deſign the glory of God, does his work moſt perfectly. It will ſhame the tepidity and incurioufneſs of Chriſtians, if I tell them that this advice is given to us by ſome wiſe Heathens. When *Marcus Brutus* had given many excellent precepts to parents, and children, and brethren, he adds, *Hæc nemo faciet quemadmodum debet niſi habuerit quò referat. Proponamus oportet finem ſummi boni, ad quem nitamur, ad quem omne factum noſtrum dictúmque reſpiciat, veluti navigantibus ad aliquid ſidus dirigendus eſt curſus. No man can doe theſe things as he ought, unleſs he direct them to ſome proper end. We muſt propoſe to our ſelves the chiefeſt good for our end, to which every word and every deed of ours muſt have regard; as mariners in their ſailing look to a ſtar for conduct.* This is not ſo to be underſtood as if we were to make actual directions and dedications of every ſingle word, or little minute action we doe, to the glory of God: this is a ſnare to Conſciences, and an Hypochondriacal devotion which ſome Friers have invented, and attributed to S. *Gertrude*, of whom they report that Chriſt admoniſh'd her that ſhe ſhould conſecrate every little part of action and word unto him; not only every writing, and every diſcourſe, and every meal, and every prayer, but every bit ſhe put into her head, & every letter ſhe did write, every ſingle ſtep ſhe did tread: juſt as if a man that were to receive a thouſand pound ſhould tell it over by ſo many ſingle Maravides, and not be content to tell every ſhilling, but reckon how many farthings are in the whole ſum; this would ſound great as the Spaniſh Coblers portion to his daughter, but certainly a wiſe man will find ſomething elſe to doe, which may be more really for God's glory, then ſo to tell his little minutes and particles of actions. It is a great piety if we dedicate to God all our ſtates of life, and all our great actions in every ſtate, and all changes, and every day, and every night, and every meal, and every beginning of labour, and give God thanks at every end, and invocate his help in every progreſſion; for ſo doing, we ſhall conſecrate our whole life to God. And this counſell S. *Macarius* of *Alexandria* gave to *Palladius* Biſhop of *Helenopolis*; who when he was a young man was much troubled in Conſcience concerning his unprofitable life, and ſuppos'd that he did nothing that was good, nothing that was profitable, but all he did was vain and trifling. *Macarius* told him, *Dic tu tuis cogitationibus, Propter Chriſtum cuſtodio parietes*, when ſuch afflictive thoughts doe intervene, ſay unto them, *For Chriſts ſake I keep the walls.* Nothing could be a meaner imploiment, nothing could be leſs uſefull; for the walls were not likely to run away. His meaning was, whatſoever the imploiment of a mans day or a mans life be, though never ſo mean, yet if it be done with a ſingle eye, and with an intuition to Chriſt, it is a holy imploiment.

Hiſt. Lauſiac. c. 20.

4. 2. Although our intentions by how much the more they are actual, by ſo much they are the better, yet it is not neceſſary that they be alwaies actual; but they are right if they be virtually and habitually directed unto God:

God: that is, that by ſome general deſignation of our actions, by the renewing of our intentions actually in certain periods of time, as in the morning of every day, or at evening, or both, or in every change of imploiment, we have an actual intuition on God and God's glory; and then, though we only attend to the work without any more actual conſideration of the end, the intention may be right, and the action ſanctified.

5. 3. But becauſe thouſands of words and actions may paſs wiſe and good men in which they do not actually reflect upon the end of God's glory, and that poſſibly the thinking of it, and ſaying, *I deſign this to God's glory*, is of no more value then if a man ſaies, *I love God*; which if it be only an act of fancy, or of ineffective affection, is no ſure indication of the true love of God, but muſt be expreſſed by ſomething that is more material and properly ſignificative of love according to the Commands of God and the manner of Men; therefore we cannot better judge of the goodneſs of our intentions, or that we do our actions for the glory of God, then when we are in all things carefull that we doe nothing againſt any of the laws of God. For this is that charity which is the ſingleneſs of a Chriſtian eye: *Ut noverimus omnia opera noſtra tunc eſſe munda, & placere in conſpectu Dei, ſi fiant ſimplici corde, id eſt, intentione ſuperna, fine illo charitatis, quia & plenitudo legis charitas eſt. Oculum ergo hic accipere debemus ipſam intentionem quâ facimus quicquid facimus: qua ſi munda fuerit & recta, & illud aſpiciens quod aſpiciendum eſt, omnia opera noſtra qua ſecundum eam operamur, neceſſe eſt bona ſint.* So S. *Auſtin.* He does all to the glory of God, that does all his works, and ſpeaks all his words in charity; juſt as he works for a reward, who does that good thing which ſhall be rewarded, though it may be he thought not of it ſince his firſt beginning of his Undertaking. *To doe all things by the rule of God's will, is to doe all things for the end of God's glory.* For he that walks with his eye upon the rule, is all the way carefull that he may not diſhonour God; and that's a great matter towards it: and he may at leaſt ſay of himſelf, *Non ideo tamen eximiam gloriam meruiſſe me credo, ſed tamen effugiſſe flagitium*; if God hath acquired no honour by my action, I am glad I have not diſhonoured him: and yet he that actually takes care that God be not diſhonoured, does obey God, and that's our beſt love to God, and in this world our greateſt glorification of him; it is more then all ſongs and thankſgivings expreſſed in words or tranſports of fancy. If we take care that all our actions be obedience, and nothing be againſt God's will, we glorifie God rightly. *Adjice nunc, quod nihil honeſte fit, niſi cui totus animus incubuit atque affuit, cui nullâ parte ſui repugnavit.* That is done honeſtly that is done with an honeſt and a whole heart, and is all of a piece, nothing at all repugnant to the Rule.

Plin. lib. 3. ep. 11.

Seneca ep. 82.

6. 4. He does all things for the glory of God, that does nothing for an evil or a forbidden end: that is, if we take care that there be no foulneſs or any unlawfull thing in our purpoſes. For if a man does things wiſely, he muſt deſign ſome end; and therefore if his end be not evil, then it is a lawfull end: and if he *ſtudiouſly* declines every end that is evil, he is carefull that God be not diſpleaſed, that God be not diſhonoured, and whatever ends can be beſides all ends that are evil, are certainly good, that is, eligible for ſome good purpoſe; it comes from God, & to him it returns. The firſt of theſe waies is a doing all things to the glory of God *actually*. The ſecond

does it *virtually*, or *habitually*. The third is a glorifying of God *interpretativè*, by equivalence and interpretation: and this fourth does it *conſecutivè*, by way of conſequence and acceptation.

7. 5. There is yet another way of doing it, which is ſo perfect an indication of the deſigning God's glory, that unleſs our hearts deceive us, the ſign will not; and that is, a beginning all our actions and changes with prayer, and ending them with thankſgiving: this is that which S. *Paul* cals a doing *all things in the name of the Lord Jeſus; giving thanks to God the Father by him.* For to doe things in the Name of Chriſt can ſignifie nothing but a doing them at his word, and by his aid; which when we pray for of God in his Name, and then return thanks to God by him, we have evidently directed that action to the Divine glory. And this is the full meaning of thoſe words of the Apoſtle, *Every creature is ſanctified by the word of God and prayer.* That is, whatſoever is taken according to God's word, and upon whatſoever ſo taken we pray for the Divine bleſſing, it is ſanctified, and miniſters to the good pleaſure and glory of God. So that if God be at any end of the action, and be at no end of it diſpleaſed, we have ſecur'd our intentions: and there will be the leſs need by ſcrupulous fears to afflict our ſelves concerning actual remembrances and intuitions of the end; ſince there are ſo many waies of ſupply and equivalent performances. For

Ubi ſupra.

8. 6. He that does all that he does becauſe he ſuppoſes God commands him or allows him, and abſtains from all things from which he does abſtain only becauſe God hath forbidden thoſe things, this mans intentions are right, and his actions pointed to a proper end. For then every act is an act of obedience, and that is love, and that is the great inſtrument of the glorification of God.

The ſecond part of this Rule, viz. *An evil action done for a good end is Unlawfull*, is plainly enough taught us by S. *Paul*, Rom. 3. 8. and I have already * given account of ſuch particulars as are under the general Conſideration. This only is to be added; that an evil done for a good end merely and intirely, is leſs then that which is not ſo alleviated; according to that ſaying of S. *Auſtin*, *Pejor eſt qui concupiſcendo quam qui miſerando furatur*, He that ſteals that he may give alms is not ſo bad as he that ſteals in Covetouſneſs and for his own increaſe.

* Book 1. ch. 5. rule 8.

Rule II.

To doe an action of it ſelf lawfull, for temporal regards, for ends of profit, pleaſure or honour, is not unlawfull, except it be accidentally.

1. THE *Arabians* have an excellent Proverb, *Anima boni operis bona eſt intentio*, *A good intention, or a good Mind, is the Soul of a good work.* Now by how much the more noble that end is which is the deſign and purpoſe of the agent, by ſo much the more excellent is the action. We ought therefore to conſider that every thing that God hath made is good, and every deſire of man which is Natural is alſo good; and God made amabilities

amabilities in ſeveral objects, and inclinations and tendencies towards them in ſeveral faculties; and he that gave us deſires to them, intended alſo that we ſhould obtain and uſe them, and therefore he alſo fitted us with means to acquire them. It follows therefore that thoſe actions which proceed from thoſe deſires as thoſe deſires proceed from God, and tend towards thoſe ends whether God himſelf by the meaſures and laws of Creation hath directed them, muſt needs be very innocent and lawfull. If God gives Riches as a bleſſing and a reward of piety, it is lawfull to deſire riches, and to labour for them. If Honour be a gift of heaven to them that honour God, then to deſire honour and to doe actions for that end cannot be criminal. If Pleaſure be created by God as an inſtrument to ſerve many ends of Nature and Grace it ſelf, then to deſire pleaſure, and to doe actions in order to it, is not againſt the end of God's glory, becauſe it is not againſt his will. Theſe things are as evident as a demonſtration. All that remains is, that in theſe we alſo glorifie God; that is, ſo uſe them, ſo deſire them, ſo deſign them, that they be ſtill left in that place and in that order where God appointed them: that is, that they entertain our intermedial deſires, and ſatisfie the needs of our journy and travel, and pleaſe our miniſtring appetites in order to their ſervice to their Superior: that as this life is but a paſſage to a better, ſo theſe deſires may miniſter to higher, and by the comforts and ſatisfactions of this world promote our affections and purchaſes of the other. The particulars of which are briefly theſe.

2. 1. Theſe temporal ends muſt not fill our affections and divert them from things better and more excellent. *Si ipſa cordis intentio quâ facis quod facis, quæ tibi nota eſt, ſordidatur appetitu rerum terrenarum & temporalium, atque cæcatur, quanto magis ipſum factum, cujus incertus eſt exitus, ſordidum & tenebroſum eſt?* ſaid S. *Auſtin.* Our appetites muſt not be polluted with earthly affections. Which S. *Baſil* expreſſes well in anſwer to that queſtion, How in eating and drinking can we glorifie God? *Menſam accedas animo non nimium ſoluto, & in ſolum cibum hiante, Come not to "the table with a diſſolute mind and a greedy deſire.* Say not, Bring me, "bring me, the meat is mine own, I lick my own plate, I live of mine "own proviſions; and therefore I will pleaſe my ſelf, that I may feel my ſelf "to live. You muſt not ſo ſpeak, and you muſt not ſo eat: but rather "revolve in thy mind, *Inſpectorem habeo Deum*, God beholds me; I will "therefore ſo eat that no man may be offended, nor God's glory leſſened. "I will not be the ſlave of my own belly, or follow it's pleaſures alone; "neither will I live to eat, but eat that I may live, and be enabled to bear "the burdens of my life and duty. Plainly thus; He that obſervs the meaſures of Temperance, the limits and ends of Nature, aud materially ſerves thoſe ends which he is bound to take care of; he eats and drinks to God's glory: although he doe not formally deſign by actual intuition this meal to God's glory. Let him ſo eat that he may be fit to ſerve God, and that he neither deſire, nor actually do ſerve his luſt; let his pleaſure extend no further then to ſerve his health and natural and religious ends, that is, let it be intermedial to that end whether the eating it ſelf is deſign'd; and the intention is innocent. For he that chuſes this diſh rather then another, becauſe it is pleaſant, hath not corrupted his intention; if this pleaſure ſerves no more but that intermedial end which is in a natural or proper order to a further end of God's appointing. That he eats this and not that,

In reg. brevior. reg. 196.

his end is pleaſure; but becauſe that he eats at all hath another end, even to enable him to live in duty to God and his Neighbour, and to preſerve his life according to the meaſures of charity and duty, this end of pleaſure is innocent, becauſe it is Natural, and produc'd by God, and goes on further towards the other ends of God. So that the reſult is this; Actions may be done innocently for temporal ends, if thoſe temporal ends be but intermedial, and be carried on further according to the purpoſes of God.

3. 2. We may ſerve our temporal ends according to our Natural or Political deſires, alwaies provided that we obſerve thoſe meaſures which God hath preſcribed; for then we are ſure they will bear us on to the glory of God; for that's their purpoſe, and that muſt be ours. A man may ſeek to be honoured, but he muſt not ſeek it by ill means; *he muſt not make the ſervice of God to give way to that; *his affections muſt not dwell in that purchaſe; * it muſt leave no vanity upon his ſpirit; * it muſt not ſerve the end of pride; * it muſt be ſome way or other for God, in the beginning or in the latter end: that is, if it be not actually or virtually deſigned for Gods glory and ſervice, that is, for the good of our Neighbour or our own Soul, by that means to incourage us in vertue; it muſt at laſt be referred to God, and paſſing through us reſt upon him. *Cajetan*, *Navarre* and *Reginaldus* from this inſtance except two caſes; ſaying that if the honour be our due, as if we receive it from our Subjects and inferiors; or if it be matter of favour and grace, indulged to us by our Superiours, it is lawfull to receive it without either actually or habitually referring it unto God: that is, we may take honour to our ſelves without referring it to God, when that honour is our due, and when it is not our due; when it is paid us in juſtice, or when it is given us in kindneſs; which are almoſt all the caſes in the world of receiving honour. But this doctrine ought not to be receiv'd, as being infinitely unreaſonable and very impious; ſince in the caſe of *Herod* God declar'd his anger mightily becauſe he received honour from his Subjects, and did not in ſo doing glorifie God.

Vide Reginald. prax. lib. 12. cap. 3. n. 27.

4. 3. All deſigns of profit, pleaſure and honour, muſt be the leſs principal; that is, ever ſubordinate to duty and religion: for although the profit or the pleaſure ſwim uppermoſt, and be the actual mover to the particular inſtance, and be more perceived then any actual conſideration of the laſt and nobleſt end; yet this is not ſufficient to condemn the intention, unleſs it be made the principal; that is, that it be not only more delighted in by the contacts of ſenſe, but preferred alſo in our underſtanding part, and our abuſed reaſon. Concerning which we may take accounts by the proportions I have formerly deſcribed *. But in General, Our beſt meaſure we can take in the regulating this Caſe of Conſcience is, that we enquire whether we prefer the ultimate or the intermediall end; which trial we may eaſily make when they croſs one another, as it often happens they doe in the very inſtance, and very often in their proportions, circumſtances and degrees. If we will not receive our profit or our pleaſure without innocence, our purpoſes and our hearts are right; only then we are to take care that the love of our profit doe not hinder us in making right judgments concerning Lawfull and Unlawfull. For very often we think our affections and *our purpoſes are right*, when there is no other cauſe to think ſo but becauſe *our underſtandings are not right*.

* See Book 1. ch. 2. Rule 5.

But

But for the fuller underſtanding of our meaſures in this inquiry, there are ſome particular Caſes of Conſcience to be reſolved.

5. 1. *Whether it be lawfull to ſerve God for any end leſs then himſelf; for riches, for honour, for defence and ſecurity of our lives, for health and ſecular ſatisfactions:* that is, *Whether it be lawfull to make God and his ſervice to be intermedial to the things of the world, the ultimate end to be intermedial, and this to be the ultimate.*

6. I anſwer; It is at no hand lawfull to doe ſo, if the meaning be ſuch, that if theſe ends ſhould fail, we would no longer ſerve God; for then theſe temporal ends are principal, when without them the ſervice would not be done, and with them alone it would. But it is lawfull to ſerve God for temporal ends, provided that theſe being but ſome or all the firſt incentives of duty, they bear us on indeed to the ſervice of God. For he that ſerves God for temporal ends does well; and it matters not where the ſervice of God begins; whether by fear or hope, whether for temporal regards or upon wiſe diſcourſes: the more imperfect motives are more uſual with beginners. But then although it matters not where we begin, yet it is a very great matter whether theſe beginnings carry us: for if upon theſe firſt incentives we do indeed ſerve God, then our love to God begins from them; and if theſe imperfect principles be the beginning of our love, they will certainly end in God. But if the queſtion be concerning a ſingle action, whether it be lawfull to be done only for a temporal regard, as to get fame or money; I anſwer, that a ſingle action done alone for any ſuch conſideration with actual rejection, or poſitive neglect of all other conſiderations, is in it's whole conſtitution criminal: and in this ſenſe thoſe words of *Publius Mimus* are true, *Malus eſt vocandus qui ſuâ causâ eſt bonus*, He is no good man that does good only for his own ſake. For it is a direct preferring the world before God, and is not a ſerving God for temporal ends, but wholly a ſerving our ſelves by actions which in thoſe circumſtances are no ſerving of God, but a doing of ſome material actions of religion in mere hypocriſie. But to ſerve God for temporal ends is very lawfull, 1. when theſe temporal ends are either the incentive and argument uſed by God to move us to his ſervice; eſpecially if no other be uſed, and if the Covenant be founded upon temporal promiſes, as the Law of *Moſes* was; 2. or when theſe temporal ends are but the firſt and beginning motive, and lead us on to other and better; 3. or when they doe actually conſiſt & are conjunct with others; 4. or when they are in true eſtimate and value ſubordinate and leſs principal; or 5. when the temporal end is firſt ſerved, and the ſervice is a return of gratitude, and the effect of preceding obligation.

The firſt of theſe was the caſe of them in the old Law. The ſecond is the ordinary caſe of beginners in religion. The third was the caſe of *Moſes*, who *deſpiſed to be called the ſon of Pharaohs daughter, becauſe he had an eye to the recompence of reward*: which reward was both temporal and eternal. The fourth is the caſe of all them who follow after godlineſs becauſe it *hath the promiſes of the world that now is, and of that which is to come*; and that *ſeek the Kingdom of heaven and the righteouſneſs thereof*, knowing that *all theſe things* (which they need here) *ſhall be added* to them; added *ex abundanti*, beſides thoſe greater and more glorious promiſes belonging to the Kingdom of grace. And the laſt was the Caſe of *Job*. *Doth*

Job ſerve God for nought? No, he had received many bleſſings which had endeared and obliged his ſervices. But as in all caſes God gives us temporal bleſſings in order to his ſervice and the communication of Eternal; ſo muſt our intentions and deſigns be, ever ſubordinate, *ever apt to yield in caſe of oppoſition, but alwaies miniſtring in caſe of compatibility and conſiſtency.*

7. 2. The ſecond inquiry is, *In what ſenſe it is true that God muſt be ſerved purely for his own ſake; and vertue purſued for vertues ſake, and not for low regards, for fear or hope, or ſecular conſiderations.*

8. To this I anſwer, that this queſtion hath it's principal effect in diſcourſe and contemplation, and but little in practice and in the real events of actions. For the firſt thing that any man knows of God is, *that he is, and is a rewarder of them that diligently ſeek him:* and no man does chuſe to ſerve God but he really is aſſured and believes he ſhall have a very great reward: and all the laws of God are eſtabliſhed upon promiſes and arguments of amability and deſire. So that to ſerve God for his own ſake, is nothing but an extaſie of love uſed by ſome excellent and contemplative perſons, in which they only actually conſider the excellencies and perfections of God; being built up in the love of God by the inſtruments of fear and hope and experience, and the ſpirit of God: and to ſerve God without reward, can never be any more then a fiction of law or fancy, a ſuppoſition, and a caſe put, which can never be reduced to act. But even as the ſerving of God with intuition of the reward is virtually a ſerving God for love of him; ſo ſerving God out of mere love of him, is virtually a ſerving God for reward.

See Book II. chap. 1. rule 4.

Epigr. l. 8. 54.

Diligeris populo non propter præmia, Cæſar:
Propter te populus præmia, Cæſar, amat.

For as no man can wiſely hope for the reward but he that does love God; ſo no man loves God purely and for himſelf but he knows alſo that he is moſt ſure of his reward. It is like S. *Paul's* wiſhing himſelf anathema for his Brethren: the greater charity he had in ſo wiſhing, the further that thing was from being effected.

9. 2. But yet there is ſomething more material in the anſwer to this queſtion. For by God and wiſe men it is intended we ſhould love God purely and for himſelf; but ſo he does who loves God above every thing elſe; for all that ſupereminent love by which God is more loved then all the world, all that love is pure and for himſelf. He that loves God only for riches or health, loves theſe better then God: but he that loves God above theſe, loves him for theſe and for himſelf too; for the good that he is, as well as for the good which he does.

10. 3. He is underſtood to love God for himſelf, who abſtains from ſin not only becauſe it is forbidden, or becauſe it will bring him to miſchief, but becauſe he hates it; though it may be the prohibition and the fear firſt brought in that hatred. For this they uſually called the love of vertue and honeſty; but the other is neceſſity. *Neque enim minus apud nos honeſtas, quam apud alios neceſſitas valet*, ſaid *Pliny*. And of this we ſtill receive the greater evidence, by how much the leſs we are moved with any of the leſſer appendages of vertue. *Quam me juvat* (ſaid *Secundus*) *quod*

Lib. 4. epiſt. 20.

Lib. 5. ep. 14.

in

in cauſis agendis non modo pactione, dono, munere, verum etiam Xeniis ſemper abſtinui. Oportet ſiquidem quæ ſunt inhoneſta, non quia illicita, ſed quaſi pudenda vitare. Jucundum tamen, ſi prohiberi publicè videas quod nunquam tibi ipſi permiſeris. I am pleaſed that in the adminiſtration of juſtice I did not only abſtain from bribes and preſents, but even from new-years gifts and gratuities. For we ought to abſtain from diſhoneſt things not only becauſe they are unlawfull, but becauſe they are ſhamefull. But when a man had rather doe a baſe action then ſuffer trouble, then he gives in evidence, that he loves not God and vertue in any ſenſe principally. So he in the Comedy,

Pol pudere quam pigere præſtat totidem literis. Trinum.

It is better to bluſh then to be hungry, to be aſhamed then to ſmart. *Lucrum pudori præſtat.* That's the intention and deſign of theſe men: they ſerve vertue as long as vertue will ſerve their ends of pleaſure and profit, and no more: and this is therefore infinitely againſt the will and glory of God, becauſe it deſtroies the nobleſt conjugation of graces that are in Chriſtianity; it makes that there ſhall be no ſuch thing as ſelf-denial and Chriſtian fortitude, and the greateſt love in giving our lives for God, and Martyrdome. But the ſureſt conjecture we can make of our intentions when they are complicated is by the actual ceſſion of one to the other. *Theodoric* adviſed well to *Marcellus* the Advocate of his Exchequer, [in *Caſsiodore*] *Non quoties ſuperes, ſed quemadmodum vincas inquirimus. Non quæras de poteſtate noſtra, ſed potius de jure victoriæ: quando laudabilius à parte fiſci perditur, cum juſtitia non habetur.* I have alwaies power on my ſide, but do you take care that I have right. I am willing my revenue be increaſed, but at no hand would I have juſtice violated. Such men as theſe & in theſe caſes do love God for himſelf, therefore becauſe they love good actions for other conſiderations then the temporal reward; they love God and ſerve him whether it does them hurt or good, pleaſure or diſpleaſure: and that's the true meaning of the old brave Philoſophers and Poets, of loving vertue for vertues ſake; they lov'd it when it was diſcountenanced, when it was the Enemy of their temporal ends and proſperities; and what they call'd loving vertue for vertues ſake, the Chriſtian calls loving God purely, or for God's ſake.

11. 4. But if we ſearch the Scriptures, we ſhall but ſeldom ſee foot-ſteps of any ſuch Metaphyſical love, as to love God or doe our duty without conſiderations of hope or fear: and amongſt the braver Gentiles, and amongſt the better Chriſtians in imitation and contentions to excel them, it is further obſervable, that when they ſpeak of loving vertue for vertues ſake, they only mean to exclude all conſiderations of ſordid ends, of ſlaviſh fear of laws, or the acquiſt of money. But even in their greateſt bravery, ſome of them deſigned to themſelves the reward of Honour and an immortal Name; and the beſt of them did reſt in the peace of their minds, and that ſatisfaction which uſes to reward a good action even in this life: but by both theſe they were by God ſecretly conducted to an expectation of a reward hereafter: and there was no love of God ever ſo abſtracted by any command or expreſs'd intention of God, as to lay aſide all intuition of that reward; becauſe in the receiving of that reward we are moſt united unto God, and ſhall in the beſt manner and meaſures glorifie him for ever.

Rule III.

The end and intention of a Law is under the Commandement, as much as the action it ſelf commanded in order to the end.

Vide lib. 2. ch. 3. rule 4.

THIS Rule is meant principally of the Laws of God: Becauſe the end of all theſe laws is that which is ſimply and abſolutely good, and nearer to the chief end which is primarily deſign'd: and this is an endearment of our ſervices and a Monitor to our duty in many particulars not expreſs'd. God hath commanded us to honour our Parents; his end is, that we may receive the fruits of Government, proviſion and order, defence and maintenance reſpectively. Upon this account, ſince we are more bound to comply with the purpoſe and end of God then with the means to that end when it is evident and known, becauſe the end is greater in God's account then the means; we are taught that it is the will of God ſo to expound the words of that Commandement, as may beſt promote that end: and by *Honour* is underſtood all thoſe duties whereby the Parent is confeſſed Honourable; and by *Parents* is meant all that are in the place of Parents, and who miniſter to the ends of Government.

2. Now this muſt not be underſtood as if God did deſign the end, and car'd not for the means; for he is the beſt chuſer of the inſtruments alſo of his own ſervice and his own glory: and though the end is better then the means, yet thoſe are the beſt means which God hath appointed: but if we cannot obtain the means, then it will ſuffice that the end be acquired as well as we can by other inſtruments Symbolical. Thus we are bound to profeſs the faith of Chriſt in the ſuſception of baptiſm: but if we cannot obtain baptiſm, which is the uſual and appointed publication of our faith, yet we are obliged ſtill to purſue the end, and confeſs the faith of Chriſt by profeſſion, by holy living, by declaring our deſires of baptiſm, by dying for Chriſt if it be requir'd.

3. This alſo hath effect upon the inſtances of our duty ſo as to enforce the ſincerity and ingenuity of them, and to make them really uſefull in order to their proper ends. Thus we muſt confeſs our ſins, becauſe we will forſake them; pray to God for his grace, becauſe we intend to make uſe of it; not reſting in forms of godlineſs, but living in the power of it. *Diodorus* lent to *Caius* ten Attic talents; but *Caius* is not able to pay a drachm, and therefore *Diodorus* forgives him; that he may be thank'd indeed for nothing.

Condones aut ſuſtineas, Diodore, neceſſe eſt:
Nam tibi quod ſolvat non habet arca mea.

But if *Diodorus* will be truly charitable let him lend to *Caius* ſo much more; for he ſerves no end of charity that lets that alone which he knows he can never get.

Avian. fab. *Ridiculè hac homines, nequeunt qua vendere, donant.*

I deny not but it may accidentally ſerve the ends of charity to forgive him that is inſolvent; it may free him from fear of trouble, and make his life comfortable;

comfortable; and he that does it upon theſe conſiderations ſerves the end of the Commandement. But he that forgives it for no other reaſon but becauſe he cannot have it, he does nothing at all; for though he perform the inſtance of the law, yet he does nothing toward the end of it.

4. But in humane laws the caſe is ſomething different; for we are only obliged to doe nothing againſt the end of the law: for in this ſenſe is that of the law to be underſtood, *Fines mandati ſunt diligenter cuſtodiendi. l. diligenter, ff. mandati.* The ends of the law are with diligence to be kept. But we are no otherwiſe bound to promote that end then by obſerving of ſuch means as are appointed; that is, if the end be only civil and humane, and do not alſo include a duty of religion commanded by God. If the Church command a faſting-day in order to a corporal affliction of our ſelves and an external miniſtery of repentance, we are bound to obey it; and though that faſting-day ſhould accidentally be no affliction, yet by virtue of that law we are no further obliged to afflict our ſelves. But we are indeed obliged to doe nothing that ſhall be againſt the end of that law. *Finem certum reſpicientia non debent contrarium operari. l. quod favore. C. de legibus.* We muſt not careſs our ſelves with delicious juice of fiſhes and coſtly wines upon a fiſh-day. The reaſon of theſe things is briefly this. In humane laws the end is not alwaies good; or if it be, it is not alwaies neceſſary; or if it were in any degree neceſſary, yet the neceſſity of it is to be judg'd by the Supreme, and is no otherwiſe to be eſtimated neceſſary by the Subject, then by the conjecture, the proportion and efficacy of the means or inſtrument appointed by the Supreme to effect that end: and therefore we are bound to reſtrain our liberties no more then the law reſtrains them; and we need not be wiſer then the laws: but he that goes againſt the mind of the law, upbraids the inſufficiency of her proviſions, and ſhews that he obeys with an ill will.

5. But the laws of God have it in their intention to regulate all the purpoſes and whole intention of the Subject; and therefore our obedience cannot be meaſured only by the inſtance of the precept, but by the purpoſe of it: and becauſe we muſt ſerve God with all our heart and all our skill, our duty muſt be coextended with all the holineſs & deſigns of God in every Commandement; that is, we muſt doe all that which we really ſuppoſe God would have to be done in every of his laws, whether it be expreſs'd or only implied. For he that intends the juſt end of all humane actions, that is, the glory of God, can be aſſured that his purpoſes are right, when he meaſures them by their tendency to the end, better then by their commenſuration with the expreſſed means.

6. Χρυσᾶ ἡ πάντα ἐραῖα, ſaid *Philoſtratus.* That's the ſum of all; we muſt take care that the end of our actions be all of gold. If they be deſign'd well, they are likely to end well; for this is truly χρυσῶν ὑπὸ πάντων χρεών· for in the ſervice of God, a Golden head ſhall never have the feet of clay. Euſtath. in Iliad. 4.

The End.

Nomini tuo da gloriam.

THE TABLE.

A.

Æquivocation.

IT was disowned by the Roman Senate. *l.3. c.4. r.23. n.7. p.358.*
is allowed for great charity.
l.3. c.2. r.5. n.35. p.100.
but not to evil ends.
l.3. c.2. r.5. n.39. p.102.
is allowable in more cases then lying.
ibid. n.40. p.103.
is then only a crime, when it is against Justice and Charity. *ibid.*

Advocates.

in a good cause must not use evil arts.
l.3. c.2. r.5. n.14. p.90.
may not tell a lye. *ibid. p.91.*
against those of them that are evil and rapacious. *l.3. c.2. r.6. n.20. p.116.*

Abraham.

concerning his offering his Son.
l.2. c.1. r.9. n.8. p.266.
whether Sarah were his Sister.
l.2. c.2. r.3. n.32. p.300. & n.45. p.305.

Act.

when and how the internal acts alone do multiplie the sin.
l.4. c.1. r.3. n.11. p.486. & n.9,10.
the omissions of them are oftentimes indifferent. *l.4.c.1.r.1.n.15,16. p.444.*
the external act of it self increases not the goodness or badness of the internal, but accidentally it may.
l.4. c.1. r.3. n.7. p.484.
the external act inferrs obligations distinct and greater then the internal.
l.4. c.1. r.3. n.8. p. 484.
every renewing of an external Act serving to a sinfull end is either a repeating of the sin or an aggravation of it.
ibid. n.10. p. 485.
the goodness or badness of an Act is made by the Object.
l.1. c.2. r.9. n.4. p.95.
but accidentally good or bad, by the Conscience. *ibid. n.7. p.96.*
Acts of vertue are to be preferred before the Instruments of vertue, and inward Acts before the outward, when Laws interfere. *l.2.c.3.r.5.n.10.p.410.*
Acts of vertue Elicit and Imperate what they signifie. *l.2.c.3.r.6.n.1.p.411.*
The Elicit acts of several vertues can never be contrary to each other.
ibid. n.2. p.411.
The Imperate acts of one vertue may contradict the Imperate acts of another.
ibid. n.3. p.411.
the Imperate acts of one vertue must not hinder the Elicit of another.
ibid. n.6. p.413.

Actions.

what guilt is contracted by imperfect actions. *l.4. c.1. r.3. n.12. p. 486.*
of the morality of actions that are involuntary in the effect, but voluntary in respect of the cause.
l.4. c.1. r.4. p.489.
to begin all actions with prayer and end them with thanks-giving.
l.4. c.2. r.1. r.7.
actions in their physical capacity are negatively indifferent.
l.4. c.1. r.1. n.14. p.444.
of the morality of negative actions.
ibid. n.15,16. p.445.
every action of our lives is either good or bad. *ibid. n.19. p.448.*
we should be watchfull over our words and actions.
l.4. c.1. r.1. n.21. p.450.
to praise an ill action how far sinfull.
ibid. r.2. n.9. p.460.
of the identity and diversity of actions internal and external, and the multiplication of sins by them.
ibid. r.3. n.5. p.483.
an action receives the denomination of good or bad from the end.
l.4. c.2. r.1. n.1.
how it is to be understood that a man should make the glory of God the end of every action. *l.4. c.2. r.1. n.3.*
we must not judge of the goodness of actions by the event.
l.3. c.3. r.4. n.5. p.162.
how far a secular end may be admitted to be the reason of a good action, and what diminution it makes of the worthiness of the act.
l.1. c.2. r.5. n.2. p.65.
but if the secular end be or be not under a promise it much alters the case.
ibid. n.2,3. p.65.
the difference of outward actions.
l.2. c.3. r.6. n.8. p.413.
what are elicit actions. *ibid.*

Abrogation of laws.

of the abrogation of laws.
l.3. c.6. r.7. p.431.
to the making a Law many conditions are required, but the defect of any one is sufficient to the abrogating.
l.3. c.6. r.7. n.1. p.431.

Adam.

the six precepts given to him.
l.2. c.2. r.2. n.3. p.281.

Admonition.

of brotherly admonition.
l.3. c.2. r.6. n.6. p.108.

Accessory.

it follows the nature of the principal.
l.3. c.4. r.4. n.4. p.227.
what is an Accessory. *ib. n.7. p.227.*

Adultery.

a subject of England taking in Spain his daughter in adultery may not kill her, though it be the Law there.
l.3. c.1. r.8. n.3. p.50.
it may be very pious and charitable for a woman to cohabit with an adulterous husband. *l.1. c.5. r.8. n.9. p.193.*
but she is not bound to doe so. *ib.n.10.*
the falshood of a betrothed woman is in Scripture punished as Adultery.
l.3. c.5. r.8. n.16. p.387.

Affirmative.

affirmative duties follow from the negative not in contraries but in contradictories. *l.2. c.3. r.1. n.10. p.392.*
affirmative precepts bind *semper*, not *ad semper*; negative *semper & ad semper.*
l.2. c.3. r.1. n.13. p.393.

Amor

descendit non ascendit, the meaning of it. *l.3. c.5. r.3. n.3. p.367.*

Angels.

upon what false reason the Gnostics commanded the worship of Angels.
l.2. c.3. r.13. n.22. p.464.

Apostles.

their Canons were at first observed by more Churches then those they did oblige. *l.3. c.4. r.11. n.2. p.266.*
how far those orders made in the Church by them do bind others.
ibid. n.3. p.267.
they gave no laws to oblige all ages of the Church, but such as they received in commandment from Christ.
ibid. n.4. p.267.
apostolical institutions may be changed. *ibid.*
Cassander affirms, those laws that enjoyn single life to Bishops and Priests ought to be relaxed, though they were Canons Apostolical. *ibid.*

Canons Apoſtolical not obſerved.
ibid. n.6. p.268.
the Apoſtles inſtitutions concerning the Sacrament oblige all Chriſtendom.
l.3. c.4. r.12. n.1,2. p.269.
the Apoſtles did not preſcribe to the Church in any thing that is matter of order or decency. *ibid. n.4. p.270.*
the ancient Church did differ in their practices from the Apoſtles.
ibid. n.5. p.270.
the Apoſtles in thoſe things they received from Chriſt were miniſters to all ages, in other things only to their own.
ibid. n.9. p.271.
the Lords day is an Apoſtolical inſtitution. *ibid. r.13. n.1. p.272.*
the conſtitutions of the Apoſtles are to be retain'd, where the change of times has brought in a contrary unreaſonableneſs. *ibid.n.2. p.273.*
the Apoſtles in their Laws complied much with the Jews.
ibid. r.20. n.2. p.323.
what power Chriſt gave to his Apoſtles. *l.3. c.4. r.1. n.3. p.212.*
it was without coaction.
ibid. n.4. p.212.
they did exerciſe juriſdiction, but it was in an extraordinary and miraculous way. *ibid. n.9. p.216.*
under their names and the names of Apoſtolical men divers books falſly put forth. *l.2. c.3. r.14. n.35. p.492.*
whatſoever the Apoſtles taught we muſt equally believe, but it is not equally neceſſary to be known. *ibid. n.63. p.509.*
the foundation of Faith laid by Chriſt and his Apoſtles was plain and eaſie, and conſiſted but of a few articles.
ibid. r.14. n.64. p.509.

Apoſtles Creed.

the Fathers gave to that Creed thoſe names of honour & excellence, which in the Scripture are attributed to the whole faith. *ibid. r.14. n.71. p.514.*
the ancient Church in the Creed made at Nice and Conſtantinople added no new articles, only new explications againſt ſome Hereticks.
ibid. r.14. n.73. p.515.
the Apoſtles Creed were uſeleſs if any thing neceſſary to be believed in order to ſalvation could be added to it.
ibid. r.14. n.77. p.516.
none ought to adde to it but they that are as infallible as the Apoſtles were.
ibid.
the danger and trouble that will follow from the inſufficiency of that Creed, if granted. *ibid. 78. p. 516.*
the practice of the Church of Rome in enlarging that Creed. *ib. n.79. p.517.*
the Apoſtles themſelves could not make a propoſition to be an article of faith, but only declare it.
ibid. n.80. p.517.
the Apoſtles intended the Creed to be a remedy againſt hereſy, which could not be, unleſs it contained the whole faith. *l.2. c.3. r.14. n.81. p.517.*

Amability.

all the cauſes of amability are reduced to two. *l.2. c.1. r.4. n.6. p.249.*

Anathema,

and Anathema Maranatha.
l.3. c.4. r.8. n.16. p.253.

Angaria.

what it is, and whether it be lawfull.
l.3. c.2. r.8. n.3. p.125.

Ἀπάγχεσθαι

τῇ συνειδότι, was Judas his manner of death. *l.1. c.1. r.2. n.9. p.15.*

Apologue,

told by Jo. Nider.
l.1. c.1. r.3. n.5. p.28.

Aquinas.

Th. Aquinas entered into the Dominican order without his Fathers leave.
l.3. c.5. r.8. n.3. p.378.

Articles of religion.

the ancient Church in the Creed at Nice and Conſtantinople added no new articles. *l.2. c.3. r.14. n.73. p.515.*
An expedient for peace of Conſcience in relation to the controverted articles of religion. *l.4. p.443.*
to ſubſcribe to Articles of religion is only for the conſervation of peace and unity. *l.3. c.4. r.23. n.1. p.356.*
where the Articles are not neceſſary the Subjects ſhould be invited to ſubſcribe, not forced.
l.3. c.4. r.23. n.5. p. 357.

Arrians

were accounted Idolaters becauſe they gave divine worſhip to Chriſt, whom they affirmed to be a mere man.
l.2. c.2. r.6. n.27. p.341.

Atheiſm.

it is a kinde of atheiſm to diſobey Parents. *l.3. c.5. r.1. n.1. p.359.*
none can be an Atheiſt, but who thinks that he has either more learning then he has, or who has not ſo much as he ſhould have. *l.1. c.2. r.3. n.66. p.61.*

Ἀπολύειν.

the Hebrews expreſſed dying by a word equivalent to it.
l.3. c.2. r.3. n.10. p.76.

S. *Auguſtine.*

the reaſon of that Theſis of his, *Satius eſt fame mori, quam Idolothytis veſci.* *l.3. c.1. r.2. n.14. p.30.*

Arguments.

it is lawfull to uſe thoſe kind of reaſons, that are *argumenta ad hominem*, with reaſons to prove it.
l.1. c.2. r.6. n.10. p.75.
every argument is not falſe to which a ſatisfactory anſwer can be given. *ibid.*
one muſt not chuſe alwaies ſuch arguments as prevail with the underſtanding, but the fancy, will or appetite.
ibid. p.76.
the force of many probable arguments amaſſed together. *l.1. c.4. r.2. n.1,2. p.121.*

Aſtrology.

of Judicial Aſtrology.
l.1. c.2. r.3. n.67. p.61.

Authors.

multitude of them is not to prevail againſt a ſtrong reaſon.
l.1. c.4. r.9. n.2. p.156.
when a multitude of them may be reduced to one ſingle perſon as their leader, their teſtimonie is to be accounted but ſingle. *ibid. n.3. p. 157.*
multitude of them hath only a preſumptive authority, and can never make a conſcience ſure.
l.1. c.4. r.9. n.5. p.157.
a compariſon between the authority of the ancient and modern writers.
l.1. c.4. r.10. n.2. p.163.

B.

Baal.

OF Elias his ſacrificing to him.
l.1. c.5. r.8. n.28. p.200.

Baptiſme.

baptiſme for the dead.
l.1. c.2. r.6. n.11. p.77.
baptizing of infants.
l.2. c.3. r.14. n.57. p.506.
it is not well to defer baptiſme till death. *l.2. c.3. r.16. n.1. p.521.*
upon whom the neceſſity lies, upon the Infants or their Parents.
l.2. c.3. r.18. n.1. p.546.
ſome afflicted with evil ſpirits, cured at their baptiſme, and upon the apoſtaſie relapſed into the ſame affliction, out of S. *Cyprian.* *l.3. c.4. r.1. n.9. p.216.*
Midwives may not baptiſe.
l.3. c.4. r.15. n.2. p.287.
of God-fathers and God-mothers at baptiſme. *l.3. c.4. r.15. n.5. p.289.*
of dipping in baptiſme.
ibid. n.6. p.290. & n.12. p.295.
the cuſtome of the ancient Church was not to ſprinkle in baptiſme. *ibid.*
thoſe that were only ſprinkled in baptiſme the ancient Church would not admit into holy orders, and made a queſtion whether they were rightly baptized. *l.3. c.4. r.15. n.12. p.295.*

ſprinkling was ſometime uſed by the Ancients, and is lawfull in caſe of neceſſity. *ibid.*

baptiſme ſhould be performed with a trine immerſion. *ibid. n.*13. *p.*296.

of the Croſs in baptiſme.
*l.*3. *c.*4. *r.*20. *n.*8. *p.*327.

a child is not to be baptized without his Fathers leave.
*l.*3. *c.*5. *r.*4. *n.*1. *p.*369.

if either of the Parents is Chriſtian, the child may be baptized againſt the will of the other who is infidel.
*ibid. n.*3. *p.*370.

Betrothed.

a betrothed woman in Scripture before marriage is ſtiled a wife, and her falſhood puniſhed as adultery.
*l.*3. *c.*5. *r.*8. *n.*16. *p.*387.

Biſhop.

there were two Biſhops of Rome, one of the Circumciſion the other of the Uncircumciſion, at one time in Rome.
*l.*2. *c.*3. *r.*11. *n.*12. *p.*444.

if a perſon uncapable be choſen Biſhop, whether the Biſhop that ordains, or he that is ordained, or they that chuſe him ſin. *l.*2. *c.*3. *r.*18. *n.*1. *p.*547.

S. Timothy was made Biſhop at the age of twenty five years. *ibid.*

to avoid a Biſhoprick Synteſius uſes unlawful arts. *l.*3. *c.*2. *r.*5. *n.*18. *p.*93.

the Canons of the Popes and Biſhops were made into Laws by the Emperour Juſtinian. *l.*3. *c.*3. *r.*5. *n.*4. *p.*175.

Euſebius Biſhop of Samoſata obeyed the Emperours decree concerning his baniſhment, againſt the perſwaſion of the people. *l.*3. *c.*3. *r.*6. *n.*2. *p.*178.

the Biſhops are ſubject to the Imperial power. *ibid. n.*21. *p.*190.

the Emperour is to be obeyed even againſt the will of the Biſhop.
*ibid. n.*22. *p.*191.

what is to be done when the command of the King and Biſhop enterfere.
*ibid. n.*26. *p.*192.

S. Chryſoſtome proves the office of a Biſhop more difficult then a King, becauſe it hath no juriſdiction.
*l.*3. *c.*4. *r.*1. *n.*7. *p.*214.

all the power of making Church laws is in the Paſtors and Biſhops.
*l.*3. *c.*4. *r.*2. *n.*2. *p.*221.

A Biſhop is diſtinct from, and above a Presbyter. *ibid.*

the diſtinction of Biſhops from Presbyters was a law made by the Apoſtles to oblige all Chriſtendome.
*l.*3. *c.*4. *r.*12. *n.*10. *p.*272.

a Biſhop hath ſupreme and legiſlative power within his own Dioceſe *intra limites Diſciplinæ.* *l.*3. *c.*4. *r.*2. *n.*3. *p.*222.

a Biſhop and his charge is an entire Society or Commonwealth.
*ibid. n.*3,4. *p.*222.

the authority of a Biſhop.
*ibid. r.*3. *n.*1. *p.*224.

to diſobey the Biſhop in an action of duty adds a new formality to the ſin.
*l.*3. *c.*4. *r.*3. *n.*2. *p.*224.

the Biſhops can give no Laws that properly and immediately bind the tranſgreſſors under ſin. *ibid. r.*4. *n.*23. *p.*233.

how Biſhops ſhould carry themſelves in teaching Kings their duty.
*ibid. r.*7. *n.*18. *p.*246.

in what caſes it is lawfull for the people to ſeparate from their Biſhop or Prieſt. *l.*3. *c.*4. *r.*8. *n.*9. *p.*250.

that none but the Biſhop or Prieſt ſhould conſecrate the Sacrament is an Apoſtolical Canon.
*l.*3. *c.*4. *r.*12. *n.*6. *p.*270.

by the Law of Chriſt one Biſhop is not ſuperiour to another.
*l.*3. *c.*4. *r.*16. *n.*6. *p.*300.

Biſhops were permitted in the antient Church to marry after ordination.
*ibid. r.*20. *n.*27. *p.*344.

Gregory Nazianzen had ſons born to him after he was conſecrated Biſhop.
*ibid. n.*28. *p.*347.

Bleſs.

Fathers Bleſs their children.
*l.*3. *c.*5. *r.*1. *n.*3. *p.*360.

Black.

of Clergy-men wearing black.
*l.*3. *c.*4. *r.*15. *n.*7. *p.*290.

Blood.

of eating blood, whether forbidden, and why. *l.*2. *c.*2. *r.*2. *n.*2. *p.*281.

abſtinence from blood is not a Law of nature. *l.*2. *c.*2. *r.*2. *n.*3. *p.*281.

the Heathen uſed to conſummate their contracts and covenants by blood or wine. *l.*2. *c.*3. *r.*9. *n.*31. *p.*431.

Bind.

the uſe of the words bind and looſe.
*l.*3. *c.*4. *r.*10. *n.*10. *p.*264.

Body.

in criminall cauſes, where bodily puniſhment is inflicted no man can be ſurety for another, *quia nemo membrorum ſuorum Dominus videtur.*
*l.*3. *c.*2. *r.*7. *n.*2. *p.*117.

of bowing the body at the name of Jeſus. *l.*3. *c.*4. *r.*15. *n.*4. *p.*289.

Bonum

ex integra cauſa, Malum ex qualibet particulari. *l.*2. *c.*3. *r.*2. *n.*2. *p.*395.

Brothers.

of the marriage of Brothers and Siſters. *l.*2. *c.*2. *r.*3. *n.*24. *p.*296.

reaſons why they ought not to marry their ſiſters. *ibid. n.*27. *p.*298.

Buy.

in doubts of Conſcience or Law he that buys is to be favoured before him that ſells. *l.*3. *c.*6. *r.*1. *n.*15. *p.*405.

Bury.

A Roman Philoſopher was in his dream warned not to bury the corps of a Perſian, who had married his Mother.
*l.*2. *c.*2. *r.*3. *n.*23. *p.*296.

C.

Cards.

Whether the trade of Cardmakers be lawfull.
*l.*4. *c.*1. *r.*2. *n.*25. *p.*468.

whether it be lawfull to play at Cards.
*ibid. n.*27. *p.*469.

in what caſes it may be lawfull to do ſo. *ibid. n.*28. *p.*470.

rules to be uſed in thoſe kind of recreations. *ibid. n.*32. *p.*473.

Vide *Gaming* in the letter G.

Canon.

the Canon and Civil Law differ in their account of Rapes.
*l.*3. *c.*5. *r.*8. *n.*15. *p.*387.

divers laws in the Canon law were the edicts of Kings.
*l.*3. *c.*3. *r.*5. *n.*4. *p.*175.

the Canons of the Church.
*l.*3. *c.*4. *r.*11. *p.*266.

how binding the Canons of an ancient council are. *l.*3. *c.*4. *r.*14. *n.*2. *p.*286.

the body of the Canon law was made by the worſt Popes.
*l.*3. *c.*4. *r.*16. *n.*4. *p.*299.

Καιρὸν.

the definition of it out of Varinus.
*l.*2. *c.*3. *r.*14. *n.*10. *p.*482.

Caſes.

ariſing from the neceſſity of reſtitution. *l.*2. *c.*3. *r.*10. *n.*8. *p.*435.

concerning contracts.
*l.*4. *c.*1. *r.*6. *n.*22. *p.*510.

Ceremonies.

I am not bound to obſerve the Ceremonies of the Church, if I muſt doe it with danger of my life.
*l.*3. *c.*6. *r.*3. *n.*15. *p.*416.

they may be the accidents of worſhip, but nothing of the Subſtance.
*l.*2. *c.*3. *r.*5. *n.*5. *p.*407.

Ceremonies and cuſtomes ought to be borrowed from the Heathen with great caution. *l.*2. *c.*3. *r.*19. *n.*14. *p.*553.

Ceremonies and geſtures may become obedience, but not religion.
*l.*3. *c.*4. *r.*18. *n.*9. *p.*314.

Church cannot impoſe Ceremonies by a law. *l.*3. *c.*4. *r.*20. *n.*4,5. *p.*325.

the Primitive Church did borrow ſome Ceremonies from the Heathen.
*l.*2. *c.*3. *r.*19. *n.*13. *p.*552.

againſt multitude of Ceremonies.
*l.*3. *c.*4. *r.*20. *n.*7,8. *p.*326.

Eccleſiaſtical laws of Ceremonies bind only in publick, not in private.
*l.*3. *c.*4. *r.*18. *n.*1, 6. *p.*313,314.

Church.

the Church in Legacies is to be favoured againſt the heir.
*l.*3. *c.*6. *r.*1. *n.*15. *p.*405.

the primitive Church did borrow ſome ceremonies from the heathen.
*l.*2. *c.*3. *r.*19. *n.*13. *p.*552.

the Chriſtian Churches and Commonweals ought to be better ordered then were the Jewiſh.
*ibid. r.*20. *n.*5. *p.*555.

of the honour due to Church-men.
*l.*3. *c.*3. *r.*6. *n.*18. *p.*187.

In external actions the command of the Prince is to be obeyed before the command of the Church.
*ibid. n.*27. *p.*193.

Princes are not bound to execute the decrees of the Church.
*ibid. r.*8. *n.*5. *p.*209.

The Church hath no juriſdiction.
*l.*3. *c.*4. *r.*1. *n.*5. *p.*213.

it hath no dominion but a miniſterial power. *ibid. n.*6. *p.*214.

which is proved by the Teſtimonie of the Fathers. *ibid.*

S. *Chryſoſtome* proves the Epiſcopal office more difficult then the Kingly, becauſe it hath no juriſdiction. *ibid.*

the High prieſt under the old Teſtament had a proper formal juriſdiction, which the Chriſtian Church had not.
*ibid. n.*8. *p.*215.

the Church hath an analogical Juriſdiction. *ibid. n.*11. *p.*217.

what is that power of remitting ſins given to the Church. *ibid. n.*13. *p.*218.

rightly to underſtand the power of the Church very uſefull. *ibid. n.*17. *p.*220.

the Government of the Church like that of the Jews before they had a King.
ibid.

all the power of making Church laws is in the Paſtor or Biſhop.
*l.*3. *c.*4. *r.*2. *n.*2. *p.*221.

what obedience we owe to the Church.
*l.*3. *c.*4. *r.*3. *n.*3,4,5. *p.*225.

the Church hath power to make laws in things that are helps of duty.
*l.*3. *c.*4. *r.*4. *per tot. p.*226.

God in ſeveral manners governed his Church. *ibid. r.*5. *n.*1. *p.*234.

never any Eccleſiaſtical Laws in the primitive Church did oblige the people, unleſs eſtabliſhed by the Prince or Emperour. *ibid. n.*4. *p.*236.

Kings obey the Laws of the Church.
*ibid. r.*6. *n.*1. *p.*237.

Privileges made to the Church may be taken away again. *ib. n.*3. *p.*238.

the Apoſtles intended not by any Laws to oblige all the ages of the Church, but ſuch Laws as they received from Chriſt.
*ib. r.*11. *n.*4. *p.*267.

the Canons of the Church.
*ib. r.*11. *p.*266.

the authority of cuſtomes of the Church. *l.*3. *c.*4. *r.*15. *n.*1. *p.*287.

a Chriſtian muſt not practiſe the different Cuſtoms of his own Church to the ſcandal of another. *ibid. n.*4. *p.*288.

a man may comply with the differing cuſtomes of ſeveral Churches. *ibid.*

a cuſtome of the Church obliges not the Conſcience againſt a Law of the Church. *ibid. n.*6. *p.*289.

a cuſtome of the Church obliges not the Conſcience, unleſs it be reaſonable, or to avoid ſcandal. *ibid. n.*7. *p.*290.

a cuſtome Eccleſiaſtical that is but of a legal and preſum'd reaſonableneſs binds us to conformity. *ibid. n.*11. *p.*293.

the Character of thoſe that quarrelled with the cuſtomes of our Church.
*ibid. p.*294.

Laws of the Church muſt not be perpetual. *ibid. r.*17. *n.*7. *p.*303.

the Church of the Jews made laws with another authority then doth the Chriſtian. *ibid. n.*24. *p.*311.

Laws made by a particular Church, may not by one Church be impoſed on another. *ibid. n.*25. *p.*311.

they may be continued by any authority ſo long as that authority laſts.
*ibid. n.*26. *p.*311.

In the matter of meats and drinks and days their Laws muſt be wholly relative to religion, not have regard to themſelves. *ibid. n.*27. *p.*312.

they muſt be impoſed with liberty of the whole Church, not of each Subject.
*ibid. n.*28.

they muſt ſerve religion, but never pretend to be religion. *ib. n.*29.

they muſt not be taught for doctrines and commandments of God.
*ibid. n.*30.

the difference between the obligation that Laws of the Church and Civil Laws leave on the Subject.
*ibid. r.*18. *n.*6. *p.*315.

the Legiſlative power of the Church is wholly a miniſtery of grace and godlineſs, not of empire and dominion.
ibid.

Laws of the Church muſt be eaſie and charitable. *l.*3. *c.*4. *r.*19. *n.*1. *p.*316.

Edification and Charity ought to be the end of all Lawes made by the Church, beyond this ſhe hath no Legiſlative power. *ibid. r.*20. *n.*3. *p.*324.

When the Church in making ſuch laws acts beyond her Commiſſion, ſhe obliges not. *ibid.*

the Church hath not power to bring into a Law whatſoever is for edification.
*ibid. n.*5. *p.*325.

the Church cannot impoſe ceremonies by a law. *ibid. n.*4,5. *p.*325.

Laws of the Church are not for edification when they give offence to wiſe and good men. *l.*3. *c.*4. *r.*20. *n.*9. *p.*328.

how the Rulers of the Church and their Subjects muſt behave themſelves if their Laws give offence. *ibid.*

Catholic Church.

the Catholic Church cannot alone give ſufficient authority to tradition.
*l.*2. *c.*3. *r.*14. *n.*40,41. *p.*498, 499.

the univerſal Church is to be our Guide in interpreting ſome precepts.
*l.*2. *c.*3. *r.*17. *n.*7. *p.*544.

a cuſtome of the Catholic Church obliges not the Conſcience, unleſs it be of preſent obſervation.
*l.*3. *c.*4. *r.*15. *n.*5. *p.*289.

the Catholic Church is a good Witneſs, but not a competent Judge in matters of Faith. *ibid. r.*21. *n.*1. *p.*350.

this is not true of the Catholic Church of any one age, but of all.
*ibid. n.*3. *p.*351.

the Catholic Church cannot be a Judge in controverſies, becauſe if there be a difference it is not Catholic. *ib. n.*4.

we know not where to find it. *n.*5.

the ſentence of thoſe that call themſelves Catholic depends on a few that preſcribe to others. *ibid. n.*6.

of the power of the Church in making Laws. *l.*3. *c.*1. *r.*1. *n.*32. *p.*22.

Church of Rome.

Inſtances wherein the Roman Church do advance the Commandments of men above thoſe of God.
*l.*3. *c.*4. *r.*17. *n.*16,17,18. *p.*306, & 307.

the Reaſons that move thoſe of the Church of Rome to make the two firſt Commandments to be one.
*l.*2. *c.*2. *r.*6. *n.*6. *p.*327.

what evil Doctrines concerning Conſcience the Roman Doctors teach.
Preface, *pag.* 2, 3.

Conſcience.

In things not certain no man can give a Law to the Conſcience.
*l.*3. *c.*4. *r.*23. *n.*5. *p.*357.

in articles not neceſſary the ſubjects ſhould be invited to ſubſcribe, not forced. *ibid.*

the Conſcience cannot relie upon cuſtomes becauſe of the many difficulties. *l.*3. *c.*6. *r.*6. *n.*7. *p.*430.

Humane Laws bind the Conſcience.
*l.*3. *c.*1. *r.*1.

Rules to know what humane Laws bind to a greater and what to a leſſer ſin. *l.*3. *c.*1. *r.*1. *n.*16. *p.*10.

an expedient for the attaining peace of Conſcience in relation to the controverted articles of Chriſtendome.
*l.*4. *c.*1. *r.*1. *n.*10. *p.*443.

Every thing we doe muſt twice paſs through the Conſcience, when it is to be done, and when done.
*l.*4. *c.*1. *r.*1. *n.*21. *p.*450.

Cuſtomes againſt Law cannot indemnifie the Conſcience.
*l.*3. *c.*6. *r.*6. *n.*4. *p.*429.

Conſcience defined.
*l.*3. *c.*1. *r.*1. *n.*1. *p.*1.

what Conſcience is in its uſe and power. *ibid. n.*1,2.

it is a reſult of the underſtanding, will and memory. *ibid.*

it proves that there is a God. *ib. n.*4.

the word diſtinguiſhed. *ibid. n.*6.

how it is, men do things againſt their Conſcience. *ibid. n.*7.

Conſcience is the mind guided and furniſhed with a holy rule. *ibid. n.*8.

the Hebrew hath no word for Conſcience

ence but what ſignifies principally the heart. *ibid. n.8. p.4.*
God reigns in our mind by Faith and Conſcience, their difference. *ibid. n.10. p.5.*
S. Bernards compariſon between the Conſcience and a houſe in the parts of both, examined. *ibid. n.11, 12. p.5.*
what force the will hath upon the Conſcience. *ibid. n.13. p.9.*
what is the adequate meaſure of Conſcience. *l.1.c.1.r.1 n.21. p.8.*
what Conſcience is. *ibid. n.23. p.9.*
the word Conſcience explained. *ibid.*
the full proceſs of Conſcience. *ibid. n.24. p.10.*
Conſcientia diſtinguiſhed from *Prudentia*. *ibid. n.26. p.10.*
all the dictates of Conſcience are not equally certain. *l.1. c.1. r.2. n.2. p.12.*
the offices of Conſcience. *ibid. p.11.*
to dictate. *n.1. p.11.*
to witneſs. *n.3.*
to accuſe or excuſe. *n.5.*
to looſe or bind. *n.8.*
the evils that are felt by a troubled Conſcience, *l.1. c.1. r.2. n.10. p.15.*
the torments of a troubled Conſcience. *ibid. p.16.*
Shame, the attendant of a troubled Conſcience. *ibid. n.11. p.17.*
Diſtraction of mind the effect of a troubled Conſcience. *ibid. n.12. p.17.*
Impudence is ſometimes the effect of a troubled Conſcience. *ibid. n.13. p.18.*
A troubled Conſcience diſquieted with Fear. *ibid. n.14. p.19.*
the pains of a troubled Conſcience deſcribed out of the book of the Wiſdom of Solomon. *ibid.*
a perpetual reſtleſneſs accompanies a troubled Conſcience. *ibid. n.16. p.19.*
the torments of Conſcience encreaſe at death and after. *ibid. n.17. p.20.*
by what inſtrument or power the Conſcience inflicteth torment. *ibid. n.18. p.20.*
the reaſon why Conſcience is more afraid in ſome ſins then others, though they are all damnable. *ibid. n.22. p.21.*
Of the act of Abſolution in the Conſcience. *ibid. n.24. p.23.*
the pleaſures of a quiet good Conſcience. *ibid.*
the ſigns of true peace of Conſcience. *l.1. c.1. r.2. n.25. p.24.*
Conſcience does ſometimes onely counſell. *ibid. n.27. p.25.*
men cover all their open ſins with the pretence of Conſcience. *ibid. r.3. n.1. p.26.*
Conſcience binds though it be in an error. *ibid. p.27.*
how to know when the office of Conſcience is uſurped by ſomething like it. *ibid. r.3. n.3. p.27.*
that Conſcience that is not willing to bear a ſearch is not right. *ibid.*
the Diviſion of Conſcience. *ibid. r.7. per tot. p.35.*
the Conſcience judgeth of actions by a double act, a direct and reflex. *l.1. c.2. r.2. n.2. p.39.*
Propoſitions naturally and philoſophically known and not theologically ſometimes are the rule in a ſure Conſcience *ibid. r.3. n.5. p.41.*
the more ſure the Conſcience is the greater is the ſin that is againſt it. *ibid. r.8. n.1. p.81.*
the Conſcience if it declares, obliges whether it be right or wrong (with ſome cautions.) *ibid. r.9. n.3. p.95.*
whatſoever is expreſly commanded by God cannot by Conſcience be changed into evil *ibid. n.8. p.96.*
where the rule is ſo obſcure or the duty ſo intricate, that the Conſcience may inculpably erre, there the Conſcience may change the object. *ibid. n.9. p.97.*
when the act is materially evil, believing it to be good does not make a perfect change, but leaves an allay only. *ibid. r.9. n.10. p.97.*
if the Conſcience dictate a thing to be neceſſary, the thing is by no means to be declined. *ibid. n.11. p.97.*
Conſcience makes no eſſential alterations in the thing, but only perſonall obligations to the man. *ibid. n.11. p.98.*
the Conſcience can make a change between neceſſary and unneceſſary, but not between good and bad. *ibid. n.12. p.98.*
If the Conſcience determine that for neceſſary to be done which ought not to be done, the man cannot eſcape a ſin. *l.1. c.2. r.9. n.11. p.98.*
If the Conſcience dictate a thing to be lawfull but not neceſſary, if the contrary be a duty, it is not ſafe to follow the Conſcience, becauſe it allows only and commands not. *ibid. n.13. p.99.*
what manner of obligation is paſſed upon us by an erring Conſcience. *l.1. c.3. r.2. n.26. p.107.*
the meaſures of obedience due to an erring Conſcience. *ibid. n.28. p.107.*
of a perplexed Conſcience. *l.1. c.6. r.2. n.6. p.212.*
the ſtrong and violent perſwaſions of Conſcience in ſingle perſons or in ſome communities of men is not a ſufficient indication of a morall Law. *l.2. c.2. r.6. n.73. p.371.*
Nemo, in Conſcientia donec condemnetur, ad pœnam exolvendam tenetur. *l.2. c.3. r.16. n.9. p.523.*
the Conſcience may be free, when the will is not. *l.3. c.1. r.1. n.29. p.20.*
all humane Laws preſcribing to the Conſcience or reſtraining the thoughts are null. *l.3. c.1. r.3. n.4. p.33.*
in matter of burden the Conſcience of the guilty perſon is to be favoured as much as may be in the interpretation of Laws. *l.3. c.2. r.2. n.31. p.70.*
they doe ill that make no Conſcience of purloining from the Cuſtom-houſes. *l.3. c.2. r.8. n.3. p.125.*
General Councils are of great uſe in determining caſes of Conſcience. *l.3. c.4. r.22. n.2. p.353.*
Againſt a doubting Conſcience a man may not act, but againſt a ſcrupulous he may. *l.1. c.6. r.2. n.2. p.211.*

Candles.

of lighting Candles by dead bodies. *l.3. c.1. r.1. n.18. p.12.*

Charity.

religion yields to it. *l.1. c.1. r.8. n.28. p.201.*
the precept of Charity and forgiveneſs is not inconſiſtent with humane puniſhments. *l.3. c.2. r.1. n.3. p.54.*
whatſoever is againſt Charity is not the effect of Juſtice. *ibid. n.5. p.54.*
duties of Charity in ſeveral perſons may be mutually contrary. *ib. n.7. p.55*

Children.

they ought to obey their Parents. *l.3. c.5. r.1. n.1. p.359.*
reaſons to enforce that duty. *ibid. n.1, 2, 3. p.359, 360.*
they muſt honour and reverence their Parents. *l.3. c.5. r.1. n.6. p.362.*
it is a ſin for Children to diſobey the holy precepts and counſels their Fathers inſtruct them with. *ibid. n.7. p.362.*
they muſt maintain their Parents. *l.3. c.5. r.3. n.2. p.366.*
they ſhould be under ſtrict tutelage betimes. *l.4. c.1. r.6. n.6. p.503.*
at what age Children are capable of Laws. *ibid. n.4. p.501.*

Compliance with weak Conſciences.

the Council of *Auxerre* did appoint Letanies and auſterities three days within the twelve Feſtivals of Chriſtmas, to rebuke the too-great compliance with the Heathen. *l.2. c.3. r.19. n.15. p.553.*
No ſin is to be permitted in complyance with weak Conſciences. *ibid. r.10. n.8. p.434.*
of compliance with weak Conſciences. *ibid. n.12. p.437.*
A cuſtome in the adminiſtration of a Sacrament brought in againſt the analogy and purpoſe of the myſtery ought not to be complyed with. *l.3. c.4. r.15. n.12. p.295.*

Chriſt.

the divinity of his perſon. *l.1. c.4. r.2. à n.13. ad n.18. p.130.*
of his Doctrine. *ibid. à n.18. ad. n.21.*
his Inſtruments. *n.22.*
of his prædictions. *ibid. n.26.*
conſidered in oppoſition to the
Jewiſh religion. *ibid. n.29.*
Heathen. *ibid. n.30.*
Mahometan. *ibid. n.31.*
If Chriſt hath not taught us ſome new Laws, he hath taught ſome new Excellencies and perfections of Morality in the old inſtances. *l.2. c.2. r.4. n.2. p.329.*
of the Example of Chriſt, as it is to be imitated by us. *l.2. c.2. r.7. n.33. p.383.*

Chriſtian.

wherein the Chriſtian righteouſneſs differs from the Moſaick.
l.4. c.1. r.1. n.24. p.450.
why the Chriſtian Law contains ſomethings contrary to the Law of nature. *l.1. c.2. r.3. n.31. p.50.*
A diſcourſe proving that the CHRISTIAN RELIGION is from God.
l.1. c.4 r.2. n.11. p.124.
the Chriſtian Religion if it were embraced rightly would prevent all war.
l.2. c.2. r.7. n.20. p.378.
A character of the Chriſtians obedience. *l.2. c.3. r.5. n.1. p.405.*
the difference between the Chriſtian ceremonies and thoſe of Moſes Law.
ib. n.5. p 406.
the righteouſneſs of the Chriſtians muſt exceed that of the Jews.
l.2. c.3. r.20. n.2. p.555.
the Chriſtian Churches and Commonweals ought to be better ordered then were the Jewiſh. *ib. n.3. p.555.*
wherein the Chriſtian obedience muſt exceed the Jewiſh.
l.2. c.3. r.20. n.2. ad fin. cap. p. 556, 557
how far every ſingle Chriſtian is bound to exceed the meaſures of obedience practiſed under the Law of Moſes.
l.2. c.3. r.20. n.12. p.558.
Humane Laws can impoſe ceremonies upon us notwithſtanding Chriſtian Libertie. *l.3. c.1. r.1. n.28. p.18.*
Chriſtians muſt not go to Law but upon very great cauſe.
l.3. c.2. r.1. n.18. p.615.

Cicero

was too amorous to his own daughter.
l.2. c.2. r.3. n.78. p.315.

Civil.

the Civil power is enabled in the law of Moſes to puniſh with death crimes committed againſt the private authority of the Father upon his ſingle teſtimony.
l.3. c.5. r.2. n.2. p.364.
the Civil and Canon Law differ in their account of Rapes.
ibid. r.8. n.15. p.387.
wherein the Civil Law can change the Natural Law. *l.2, c.1. r.10. n.7. p.271.*
the Civil Law can adde to the Law of Nature. *ibid. n.9. p.272.*
Cautions to be uſed in civil permiſſions of an unlawfull act.
l.2. c.2. r.7. n.7. p.374.
the difference between the obligation that Laws of the Church and Civil Laws leave on the Subject.
l.3. c.4. r.18. n.6. p.315.

Circumſtances.

of the Circumſtances of time and place in relation to Laws.
l.3. c.6. r.3. n.30. p.422.

Certainty.

a twofold certainty in the Conſcience.
l.1. c.2. r.2. n.2. p.39.
what kind of certainty is to be look'd for in moral actions. *ibid. n.3. p.39.*
an opinion may be practically certain when the knowledge of it in ſpeculation is only probable.
l.1. c.4. r.1. n.1. p.120.

Clemency.

It is a great vertue in a Prince.
l.3. c.3. r.2. n.18. p.146.

Commandment, &c.

In interpreting Gods commands we muſt chuſe that ſenſe that moſt promotes the ends of the Commandment.
l.3. c.6. r.1. n.10. p.403.
he that commands is more guilty then he that in obedience executes.
l.4. c.1. r.2. n.1. p.455.
In maleficio, Ratihabitio mandato comparatur. ibid.
In all prime neceſſary Commandments the moſt obvious ſenſe is the beſt and principally intended.
l.1. c.1. r.6. n.1. p.34.
whatſoever is expreſly commanded by God cannot by Conſcience be changed into evil. *l.1. c.2. r.9. n.8. p.96.*
when a Commandment is given with a reaſon, it does not follow, that where the reaſon continues not, that the Commandment does not.
l.1. c.5. r.8. n.8. p.192.
the breach of a Commandment is a ſurer rule to judge of the quality of ſins then their being againſt a natural reaſon.
l.2. c.1. r.6. n.4. p.259.
To kill ones ſelf is againſt the ſixth Commandment. *l.3. c.2. r.3. n.7. p.75.*
whatſoever is forbidden by the naturall law or commanded by it cannot be permitted or forbidden.
l.2. c.1. r.10. n.3. p.270.
The Jewiſh Doctors taught that at the command of a Prophet, it was lawfull to break any Commandment, that only excepted, which concerns the worſhip of God. *l.2. c.2. r.1. n.1. p.276.*
the reaſons that move thoſe of the Church of Rome to make the two firſt Commandments to be one.
l.2. c.2. r.6. n.6. p.327.
the reaſons that move the Lutherans to doe it. *ibid. p.329.*
the ſecond Commandment is moral, not only poſitive. *ibid. n.23. p.338.*
the Primitive Chriſtians were haters of Image-worſhip. *ibid. n.33. p.349.*
Many of the Ancients affirme that both the tables of Moſes are moral in all except the precept of the Sabbath.
ibid. n.41. p.355.
Reaſons why all Commandments but the Fifth are affirmative.
l.2. c.3. r.1. n.2. p.389.
that parts of ſome precepts are Counſels *ibid. n.14. p.394.*
more is forbidden and commanded then is in the words of the Commandmandment. *ibid. r.3. n.1. p.396.*
whatſoever action is of the ſame ſpecification with an action expreſly commanded or forbidden is of the ſame obligation. *ibid. n.3. p. 398.*
if the Relative be under the Commandment, then alſo the Correlative is.
ibid. n.6. p.399.
In what ſenſe it is ſaid, He that breaks one Commandment is guilty of all.
ibid. r.11. n.17. p.447.
there is in every Commandment a negative and an affirmative part.
ibid. r.12. n.2. p.449.
In matters of counſell God does invite us to ſome actions, which to omit is no ſin, but it is never ſo in matters of Commandment.
ib. r.16. n.21. p.519.
Of Commandments and Counſels.
ib. r.17. n.11. p.545.
A flying or ambulatory Commandment, *il mandato volante.*
ibid. r.18. n.1. p.547.
when it is unlawfull to teach for Doctrines the Commandments of men.
l.3. c.4. r.17. n.10. p.304.
Inſtances wherein the Roman Church do advance the Commandments of men above thoſe of God.
ibid. n.16,17,18. p.306,307.
Laws made by a particular Church muſt not be taught for doctrines and Commandments of God. *ibid. n.30.*
Cuſtoms are to be tried by the rule or commandment.
l.2. c.3. r.19. n.5. p.550.

Commiſſion.

Sins of commiſſion are greater then ſins of omiſſion.
l.2. c.3. r.1. n.12. p.393.

Commutation.

of commutation of Laws.
l.3. c.6. r.5. p.426.
rules of adminiſtring it. *ibid.*

Conſent.

in what caſes Conſent is indicated by ſilence. *l.4. c.1. r.2. n.11. p.461.*
Cautions to be obſerved in the preſumption of leave upon the ſilence of a Superiour. *l.4. c.1. n.16. p.462.*
it is no argument, when it is nothing but imitation. *l.2. c.2. r.6. n.74. p.371.*
In matters criminal the conſent contracts guilt. *l.4. c.1. r.2. n.3. p.456.*

Contract.

In all obligations of Conſcience by contract, when any doubt ariſes in the Interpretation, we are to reſt upon that which is moſt likely and moſt uſuall.
l.3. c.6. r.1. n.12. p.404.
Rules of extending or diminution of contracts the ſame as of extending or diminution

diminution of Laws.
ibid. r.3. n.32. p.422.
In matters of Fraud, if an error be in the substance of things contracted for, it is invalid. *l.4. p.509.*
Cases concerning contracts.
l.4. c.1. r.6. n.22. p.510.
of contracts with minors.
l.2. c.1. r.5. n.2,3. p.252.
A Contract made by him that had no power is invalid. *ibid. r.7. n.3. p.261.*

Clergy.

Of Clergy-men wearing black.
l.3. c.4. r.15. n.7. p.290.
of the marriage of the Clergy.
ibid. r.20. n.15. p.332.
Some Councils have subjected the Clergy to the secular Judge.
l.3. c.3. r.6. n.4. p.180.

Communion.

Of Communion with erroneous persons. *l.3. c.4. r.8. n.5,6. p.249.*
We may not communicate with those that are justly excommunicate.
ibid. r.10. p.261.

Compell.

Princes may compell their Subjects to serve God. *l.3. c.3. r.5. n.3. p.174.*

Confessions of Faith.

Subscription to them is only for the conservation of peace and unity.
l.3. c.4. r.23. n.1. p.356.
Such subscription does not bind a man for ever. *ibid. n.2.*
should be required to Articles otherwise necessary in themselves.
ibid. n.3. p.357.
or for the preserving of peace. *ib. n.4.*

Controversies.

Of the Judge of Controversies.
l.3. c.4. r.21. n.3. p.351.
The Catholick Church cannot be a Judge in Controversies, because if there be a difference it is not Catholick.
ibid. n.4.
an expedient for the attaining peace of Conscience in relation to the Controversies that trouble Christendome.
l.4. c.1. r.1. n.10. p.443.

Contempt.

Of Contempt of Laws.
l.3. c.1. r.1. n.22. p.15.
Causelesly and contemptuously are all one. *ibid.*
In Comparatione *personarum inest laesio & injuria. l.3. c.4. r.7. n.9. p.377.*

Counsell.

He that gives counsell or aid to an action good or evil, to him it is imputed as the effect of his choice.
l.4. c.1. r.2. n.22. p.466.
of the guilt of those that assist at murthers, either by counsell, company or presence. *ibid. n.23. p.467.*
the parts of some precepts are Counsells. *l.2. c.3. r.1. n.14. p.394.*
the difference between Counsells and Laws. *ibid. r.12. n.4. p.450.*
the measures and notes of their difference *ibid. n.10. p.452.*
In matter of Counsels God does invite us to some actions, which to omit is no sin. *ibid. r.16. n.21. p.529.*
Of Counsells. *ib. r.17. n.11. p.545.*
Evangelical Counsells may not be made into Laws.
l.3. c.4. r.20. n.12. p.330.
Counsells Evangelical when they are not left at liberty become a snare.
l.3. c.4. r.20. n.13. p.331.

Council.

A Council cannot alone give sufficient authority to tradition.
l.2. c.3. r.14. n.42. p.499.
The Council of Auxerre did appoint Letanies and Austerities three dayes within the twelve festivals of Christmas, to rebuke the too-great complyance with the Heathen. *ibid. r.19. n.14. p.553.*
Some Councils have subjected the Clergy to the Secular Judge.
l.3. c.3. r.6. n.4. p.180.
The first Councils were called by the Emperors. *ibid. r.7. n.10. p.204.*
the Emperor had the primacy in eight General Councils. *ibid.*
the Emperor did dismiss the Councils *ibid. n.11. p.205.*
Of a General Council and its authority. *l.3. c.4. r.14. n.1. p.285.*
Several Councils rejected by several Catholick Princes. *ibid. n.2. p.286.*
How binding the Canons of an ancient Council are. *ibid. n.3. p.286.*
General Councils are not the proper measure of matters of faith.
ibid. r.22. n.1. p.353.
yet are of great use in determining cases of Conscience. *ibid. n.2.*
what is the authority of a Council.
ibid. n.3. p.354.
Of *Counterfeiting* old Medals, Manuscripts and Beautie, *&c.*
l.3. c.2. r.5. n.44. p.104.

Criminal.

In matters criminal the consent contracts guilt. *l.4. c.1. r.2. n.3. p.456.*
in what cases the Criminal is to be his own Executioner.
l.3. c.2. r.2. n.14. p.63.
A Criminal condemned may be pardoned by the King.
l.3. c.3. r.2. n.18. p.146.
In what cases he may doe it.
ibid. n.19. p.147.
Death must not be inflicted on Criminals upon trifling causes.
l.3. c.2. r.1. n.17. p.58.

Condemned.

Condemned persons are not bound to put themselves to death.
l.3. c.2. r.2. n.18. p.65.
One condemned by an unlawful Judge or Power, may resist the Executioner in some cases. *ibid.*
Signes by which to know when the Law condemns the Offender *ipso facto.*
ibid. p.68.
whether it be lawfull to kill a mans self when he stands condemned to dye.
l.3. c.2. r.3. n.4. p.72.
An Offender condemned may be pardoned by the King.
l.3. c.3. r.2. n.18. p.146.
In what cases he may doe it.
ibid. n.19. p.147.
Of the *Cross* used in Baptisme.
l.3. c.4. r.20. n.8. p.327.
Of the marriage of *Cosen-Germans.*
l.2. c.2. r.3. n.34. p.301.
P. Gregory affirmed that if *Cosen-Germans* marry they would have no children. *l.2. c.2. r.3. n.79. p.316.*

Customs.

Where a Law is established and good, Custome of it self cannot annull it.
l.3. c.6. r.6. n.2. p.428.
When there is no Law, Custome supplies the place. *ibid.*
A Custome can interpret a Law.
ibid. n.3. p.428.
Customes are as good as Laws in the doubtfull interpretation of Laws.
ibid. n.3. p.428.
That Custome, by the Laws of *Spain*, is forever to be observed, according to which the Judge has twice pronounced sentence. *ibid.*
Custome alone cannot abrogate Laws. *ibid. n.4. p.428.*
Consuetudo nec rationem vincit nec legem. *ibid. p.429.*
Customes against law cannot indemnifie the Conscience. *ibid.*
That mistake, that Custome can abrogate a Law, began in those nations where the legislative power was in the people. *ib. n.6. p.429.*
Custome cannot abrogate a Law under a Monarchy *ibid. p.430.*
The Conscience cannot relie upon Customes, because of the many difficulties. *ibid. n.7. p.430.*
What receives all its warrant from Custome cannot be of divine authority.
l.2. c.3. r.19. n.1. p.548.
Custome may expound the sense of a Law or Doctrine, but not make one.
ibid. n.2. p.549.
A weak reason is to be preferred before a long prevailing custome.
ibid. n.3. p.549.
Customes are to be examined and tryed by the Rule or Commandment.
ibid. n.5. p.550.
When Custome may safely be relyed upon. *ibid. n.6. p.550.*
The Customes of the world are but an ill Commentary on the Commandments of our B. Lord.
ibid. n.7. p.550.

Customes

Cuſtomes ought to be borrowed from the Heathen with great caution. *ibid. n.14. p.553.*

Such cuſtomes as are built upon any point of heathen doctrine we may not borrow. *l.2. c.3. r.19. n.15. p.553.*

Ex conſuetudine indici præſumptionem contemptus, licèt ipſa contemptus non ſit. *l.3. c.1. r.1. n.22. p.15.*

The authority of cuſtomes of the Church. *l.3. c.4. r.15. n.1. p.287.*

A Chriſtian muſt not practiſe the different cuſtomes of his own Church to the ſcandal of another. *ibid. n.4. p.288.*

A man may comply with the differing cuſtomes of ſeveral Churches. *ibid.*

A cuſtome of the Catholick Church obliges not the Conſcience, unleſs it be of preſent obſervation. *ibid. n.5. p.289.*

A cuſtome of the Church obliges not the Conſcience againſt a Law of the Church. *ibid. n.6. p.289.*

A cuſtome of the Church obliges not the Conſcience, unleſs it be reaſonable, or to avoid ſcandal. *ibid. n.7. p.290.*

The meaſures by which good cuſtomes are known. *ibid. n.8. p.291.*

A cuſtome whoſe reaſon is not known, if it be of immemorial time, is not lightly to be laid aſide. *l.3. c.4. r.15. n.10. p.292.*

Conſuetudo cujus initii memoria non ſit in contrarium, præſumitur rationabilis. *ibid. n.10. p.293.*

A cuſtome Eccleſiaſtical that is but of a legal and preſumed reaſonableneſs binds us to conformity. *ibid. n.11. p.293.*

The Character of thoſe that quarrelled with the cuſtomes of our Church. *ibid. n.11. p.294.*

A cuſtome in the adminiſtration of a Sacrament brought up againſt the analogy & purpoſe of the myſtery ought not to be complied with. *l.3. c.4. r.15. n.12. p.295.*

The Judges by their ſentences beſt convey the notice of a Cuſtome. *l.3. c.6. r.6. n.3. p.428.*

Cuſtome, or tribute.

They doe ill that make no conſcience of purloining from the Cuſtome-houſe. *l.3. c.2. r.8. n.3. p.125.*

It is not lawfull to deny cuſtome, though to the Farmer and not to the Prince. *l.3. c.2. r.10. n.5. p.128.*

Of κυριεύειν and καταχρῆσθαι. *l.3. c.3. r.4. n.19. p.172.*

In *Corporal* puniſhments the Law does not proceed without the ſentence of the Judge. *l.3. c.2. r.2. n.17. p.64.*

Qualis Cauſa *talis Effectus. Preſ. pag.12.*

D.

THE *Daughter* that is marriageable, when her Father is dead, is under the power of her Mother. *l.3. c.5. r.8. n.29. p.394.*

Death.

What things are requiſite to make the ſentence of Death juſt upon an accuſed perſon. *l.1. c.2. r.8. n.18. p.88.*

Death-bed repentance. *l.2. c.3. r.16. n.9. p.523.*

The Laws of God in precepts purely affirmative do not oblige to an actual obedience in danger of death. *l.3. c.1. r.2. n.8. p.27.*

An Humane Law made under the penaltie of death binds to obedience, though death certainly follow. *l.3. c.1. r.2. n.12. p.29.*

Whether it be lawfull to kill a mans ſelf when he ſtands condemned to dye. *l.3. c.2. r.3. n.4. p.72.*

Among the Romans they that killed themſelves might make their wills. *ibid.*

The Stoicks held it lawfull to kill ones ſelf in five caſes. *ibid. n.4. p.73.*

Ariſtotle will not allow it to be gallant for the avoiding any evil to kill ones ſelf. *l.3. c.2. r.3. n.6. p.74.*

When a Tyrant power threatens death to make the obedient Subject contemn the Law, the Subject ought rather to dy then diſobey the Law. *l.3. c.1. r.2. n.13. p.29.*

Death muſt not be inflicted on Criminals upon trifling cauſes. *l.3. c.2. r.1. n.17. p.58.*

Some Princes required malefactors to be Executioners of death upon themſelves. *l.3. c.2. r.2. n.17. p.65.*

It is an act of Deſpair to procure ones own death to prevent worſe uſage from the hands of Enemies. *l.3. c.2. r.3. §.8. p.75.*

To kill ones ſelf is againſt the ſixth Commandment. *ibid. n.7. p.75.*

It is no more lawfull to kill ones ſelf, then ones neighbour, becauſe our love to our ſelves is the meaſure of our love to our neighbour. *ibid. n.9. p.76.*

To kill ones ſelf is againſt the Doctrines of the Fathers. *l.3. c.2. r.3. n.6,9. p.76.*

is rebellion againſt God. *n.10. p.76.*

is againſt nature. *n.11. p.77.*

Of Sampſons killing himſelf. *l.3. c.2. r.3. n.13. p.77.*

Of arreſting dead bodies for debt. *l.3. c.2. r.7. n.10. p.120.*

Debt.

A man is not bound to pay his debts, when to do ſo will take away from him his natural ſupport. *l.1. c.5. r.8. n.28. p.201.*

Of impriſoning inſolvent Debtors. *l.3. c.2. r.7. n.5. p.118.*

Debtors were free from their Creditors, if they did *ejurare bonam copiam.* *ibid. n.7. p.118.*

The ſeveral Laws of the Romans concerning inſolvent Debtors. *ibid. n.5,6,7,8. p.118.*

Chriſtian religion takes off all rigid inflictions from inſolvent Debtors. *ibid. n.9. p.120.*

Of *Delight* in an evill action when it is paſſed. *l.1. c.3. r.5. per tot. p.112.*

Dice.

Whether the Dicemakers trade be lawfull. *l.4. c.1. r.2. n.25. p.468.*

Whether it be lawfull to play at Dice. *ibid. n.27. p.469.*

Thoſe that loſt any conſiderable part of their eſtate at Dice the Roman Law baniſhed. *ibid. n.28. p.470.*

In what inſtances Dice may be lawfull. *ibid.*

Rules to be uſed in the managing that kind of recreation. *ibid. n.32. p.473.*

Vide *Gaming* in the letter G.

Διαθῆκαι. *l.1. c.2. r.3. n.20. p.460.*

Diſpenſation.

The ground and meaſure of the Diſpenſation of Laws. *l.1. c.5. r.8. n.35. p.205.*

God can diſpenſe with the Law of Nature. *l.2. c.1. r.9. n.3. p.264.*

A Diſpenſation is not neceſſary for Conſcience, but for avoiding ſcandall or puniſhment. *l.3. p.424.*

The cauſes of proper diſpenſations. *ibid. p.425.*

He that diſpenſeth muſt not injure religion nor any right not ſubject to him. *l.3. p.425.*

Every matter from whence the *ratio Debiti* can be taken, is diſpenſable. *l.2. c.1. r.9. n.11. p.268.*

The Pope hath not power to diſpenſe with the law of Nature. *l.2. c.1. r.10. n.9. p.272.*

No humane power can diſpenſe with the poſitive Laws of Jeſus Chriſt. *l.2. c.3. r.11. n.1. p.440.*

Diſpenſation is twofold. *ibid. n.13. p.445.*

No man can diſpenſe with thoſe Laws that follow by immediate conſequence from the poſitive Laws of Chriſt. *ibid. n.15. p.446.*

When any condition intrinſecal to the duty of an affirmative precept can neither be had nor ſupplied, the duty falls without the need of Diſpenſation. *l.2. c.3. r.11. n.15. p.446.*

A duty whoſe neceſſary condition cannot be ſupplied is diſpenſed with in the nature of the thing, not by any act of Juriſdiction. *l.2. c.3. r.11. n.15. p.446.*

Of the power of Diſpenſation. *l.3. c.6. r.4. n.1. p.423.*

It is twofold, proper and improper. *ibid. n.2,3. p.423.*

Men have made many needleſs diſputes about the power of Princes in diſpenſing with Laws. *ibid. n.4. p.424.*

All *Diſſembling* from an evill principle and to evill purpoſes is unlawfull. *l.3. c.2. r.3. n.44. p.104.*

Divine.

When the authority of Divines is to be followed. *l.1. c.4. r.10. n.5. p.165.*

The

The Antients ſometimes affirm a thing is of Divine right, if they have in Scripture but an authentic example. *l.3.c.4.r.13. n.8. p.275.*

Divorce.

It was the opinion of S. *Hierome* and ſome others, that it was not lawfull for the Husband or wife to live with her or him that was notoriouſly guilty of adultery. *l.1.c.5.r.8. n.7. p.191.*

Duty.

Concerning the ſupply of Duty. *l.2. c.3. r.11. n.17. p.447.*

The external actions of a Duty are determined by ſomething without, and things which are not in our power, and ſometimes by our own will. *l.2. c.3. r.16. n.4. p.522.*

In what manner an intrinſecal condition being wanting, the Duty is releaſed. *l.2. c.3. r.11. n.15. p.446.*

No man is to anſwer for an accidental evil effect, that is conſequent to his duty. *l.3. c.2. r.1. n.6. p.55.*

That which is neceſſary to be done is not againſt any mans duty. *ib.n.10.p.56.*

The Diſtinction of Δουλία and Λατρεία *l.2. c.2.r.6. n.27,28. p.342.*

Doubt.

A negative doubt what it is. *l.1. c.5. r.1. n.5. p.175.*

a negative doubt binds not to action. *l.1.c.5. r.2. n.1. p.176.*

what is a privative Doubt. *ibid. n.7. p.177.*

Againſt a doubting Conſcience a man may not act, but againſt a ſcrupulous he may. *l.1.c.6. r.2. n.2. p.211.*

In all matters of doubt when the Caſe on either hand is equall, ſo that the Conſcience cannot determine, there the Examples of good men are of great uſe to determine it. *l.2. c.2. r.7. n.43. p.387.*

The *Doctors* of the Church cannot give ſufficient authority to a tradition. *l.2. c.3. r.14. n.41. p.499.*

Concerning *Durandus* his diſtinction, *Ligat Conſcientia Erronea, ſed non obligat.* *l.1. c.3. r.2. n.26. p.107.*

Duell.

Of the way of proving ones innocence by Duell. *l.3.c.2.r.6.n.12.p.112.*

In what caſes judicial Duells are lawfull. *ibid. n.13. p.113.*

Drunkenneſs.

Of thoſe that permit it in their houſes at feaſts. *l.4. c.1. n.21. p.465.*

Whether and in what manner it may leſſen a Crime. *l.4. c.1.r.6. n.14. p.506.*

Of the Crimes done in drunken diſtempers. *ibid. n.10.p.505.*

What difference there is in the obligation of a Law of Chriſt in reſpect of the outward and inward action. *l.2. c.3. r.16. n.4. p.522.*

E.

Eaſter.

EAſter was not inſtituted by command of the Apoſtles. *l.3. c.4. r.13. n.13. p.278.*

It is no diſhonour to that feaſt, to affirm the Apoſtles did not intend to make laws concerning it. *l.3. c.4. r.13. n.13. p.279.*

Eaſter feſtival was in uſe, though not commanded in the Apoſtles time. *ibid.*

The meaſures of *Eating* and drinking. *l.4. c.2. r.2. n.2.*

Eccleſiaſtics.

Rules concerning the reſidency of Eccleſiaſtics or their tranſlation. *l.1. c.2. r.5. n.22. p.69.*

A Decretal of Pope *Evariſtus* concerning Eccleſiaſtics leaving their Churches, diſſallowing it upon any pretence. *ibid. n.23. p.69.*

An act of the Nicene Creed concerning the ſame, out of S. *Hierome. ibid.*

An explication of the Decretal of *Evariſtus. ibid. n.24.*

An explication of the allegation, out of S. *Hierome. ibid. n.25. p.71.*

Some inſtances of Kings and Prieſts driven from their thrones by an exorbitant Eccleſiaſtical power. *l.3. c.3. r.4. n.11. p.166.*

Eccleſiaſtical power differs much from the Civil. *l.3. c.3. r.4. n.19. p.171.*

Divers Eccleſiaſtical Laws made by Emperours. *l.3. c.3. r.5. n.5. p.175.*

Baronius anſwered, who affirms, thoſe Eccleſiaſtical Laws made by Emperours were unjuſt. *l.3. c.3. r.5. n.7. p.176.*

Donatus ſaid, What hath the Emperour to doe with the Church? *l.3. c.3. r.5. n.6. p.176.*

S. *Chryſoſtome* teaches that an Eccleſiaſtical perſon though an Apoſtle muſt be ſubject to the civil power. *l.3. c.3. r.6. n.1. p.178.*

Inſtances to prove that the civil power hath a power of coercion over Eccleſiaſtics. *ibid. n.3. p.179.*

Wherein conſiſts the honour of an Eccleſiaſtic. *l.3. c.3. r.6. n.18. p.187.*

Eccleſiaſtics have not a temporal power in order to a ſpiritual end. *l.3. c.3. r.7. n.2. p.200.*

That ſaying, *Eccleſia eſt in republica, non Reſpublica in Eccleſia*, explained. *ibid. n.8. p.203.*

The diſtinct parts and meaſures of the Eccleſiaſtical and Civil power. *l.3. c.4. r.5. n.3. p.235.*

the difference of the Eccleſiaſtical from the Civil power. *l.3. c.4. r.9. n.1. p.255.*

See more in C. word Church.

Of the Hebrews lying to the *Egyptians.* *l.3. c.2. r.5. n.7. p.84.*

The Council of *Eliberis* decreed againſt pictures in Churches. *l.2. c.2. r.6. n.35. p.350.*

Emperour.

they made divers Eccleſiaſtical Laws. *l.3. c.3. r.5. n.5. p.175.*

Honorius the Emperour made a Law concerning the election of the Pope. *l.3. c.3. r.5. n.5. p.176.*

Donatus ſaid, What hath the Emperour to doe with the Church? *ibid. n.6. p.176.*

Baronius affirms thoſe Eccleſiaſtical Laws were unjuſt that the Emperour made, an anſwer to it. *ibid. n.7. p.176.*

Pope *Gregory* the Great ſubmitted to *Mauritius* the Emperour in an Eccleſiaſtical Law. *l.3. c.3. r.5. n.7. p.176.*

Euſebius Biſhop of Samoſata yielded to be baniſhed by the Emperour, though the people offered to defend him. *l.3. c.3. r.6. n.2. p.178.*

The Archimandrites of Conſtantinople writing to the Pope, mentioned the Emperour as head of the Church. *ibid. n.19. p.189.*

The Emperour hath power over Biſhops. *ibid. n.21. p.190.*

Emperour is to be obeyed againſt the will of the Biſhop. *ibid. n.22. p.191.*

He is to be obeyed againſt the will of the Biſhop in actions that by empire are changed into good or bad reſpectively. *ibid. n.23. p.191.*

The Biſhops of Rome deſtroyed the Roman Empire. *l.3. c.3. r.7. n.4. p.201.*

The firſt Councils were called by the Emperours. *ibid. n.10. p.204.*

He had the primacy in eight General Councils. *ibid. n.10. p.204.*

The Emperours did diſmiſs the Councils. *l.3. c.3. r.7. n.11. p.205.*

S. *Hierome* diſputing againſt *Ruffinus*, diſproves a certain Synod, becauſe *Ruffinus* could not ſhew what Emperour called it. *ibid. n.11. p.205.*

Decrees made by the Emperours concerning matters of Faith. *ibid. n.13,14. p.206.*

Empire is included in Juriſdiction. *l.3. c.4. r.1. n.5. p.212.*

There is no Empire in preaching. *ibid. n.12. p.217.*

Never any Canons of the primitive Church did oblige the people, unleſs eſtabliſhed by the Emperour. *l.3. c.4. r.5. n.4. p.236.*

Of S. *Ambroſe* excommunicating *Theodoſius*: *Babylas* excommunicating the Emperour *Decius*: *Athanaſius*, the Preſect of *Lybia*: *Chryſoſtome*, the Empreſs *Eudoxia. l.3. c.4. r.7. n.8,9. p.242.*

See more in the title *King & Prince*, &c.

Hildebrand did ill to excommunicate the Emperour *Henry.* *l.3. c.4. r.10 n.12. p.264.*

Of

Of *Elias* his ſacrificing to Baal.
*l.*1.*c.*5.*r.*8.*n.*28.*p.*200. & *n.*37.*p.*205.

End.

An action receives the denomination of good or bad from the end.
*l.*4.*c.*1.*r.*1.*n.*1.
How the Glory of God is to be reconciled with thoſe other lower ends which we ſet for our actions.
*l.*4.*c.*2.*r.*2.*n.*1.
How temporal ends are to be ſubordinate to ſpiritual. *ibid. n.*2.
Temporal ends muſt not fill our affections & keep out better things. *ib.n.*2.
We may ſerve inferiour ends ſo they carry us not beyond due meaſures. *ib.n.*3.
All temporal ends muſt be leſs principal and ſubordinate to religion. *ib. n.*4.
Fines mandati ſunt diligenter cuſtodiendi. *l.*4.*c.*2.*r.*3.*n.*4.

England.

There is no article in the faith of the Church of England, but is poſſible to be effected by the ordinary power of God. *l.*1.*c.*2.*r.*3.*n.*50.*p.*56.
In England no Council is of authority but the firſt four general Councils.
*l.*3.*c.*4.*r.*14.*n.*2.*p.*283.
The Church of England retains in all her Offices but one ceremony, that is not of divine inſtitution or Apoſtolical. *l.*3.*c.*4.*r.*20.*n.*8.*p.*327.
The reformation made in England by Henry the eighth was never the worſe becauſe he propoſed to himſelf (poſſibly) an evil end. *l.*3.*c.*4.*r.*3.*n.*5.*p.*33.

Ἐπιλαμβ. *l.*2.*c.*2.*r.*3.*n.*53.*p.*307, 317.

Equity.

Of Equity in interpreting penal Laws. *l.*3.*c.*6.*r.*1.*r.*2.*p.*399.
Of Equity in puniſhments.
*l.*3.*c.*6.*r.*1.*n.*16.*p.*405.
it is to be practiſed for the ends of charity and juſtice, not oppreſſion.
*ibid. r.*2.*n.*4.*p.*408.

Ἠθικῶς. *l.*2.*c.*3.*r.*13.*n.*9.*p.*458.

Errour.

The cauſes of it.
*l.*1.*c.*3.*r.*2.*n.*2,3.*p.*100.
The meaſures of obedience due to an erring Conſcience.
*l.*1.*c.*3.*r.*2.*n.*28.*p.*107.
If the thing which it commands be indifferent we may follow it without ſin.
ibid.
If an Erring Conſcience dictate a thing to be good, which is not good, not to follow that dictate and not to doe that thing is no ſin. *ibid. n.*29.*p.*108.
If an Erring Conſcience affirm that which is good or indifferent to be evil, it is no ſin to omit that action.
*ibid. n.*30.*p.*108.
If an Erring Conſcience ſay that ſuch an action is lawfull only, when of it ſelf it is good, we ſin not whether we doe it or not doe it. *ibid. n.*31.*p.*108.
If an Erring Conſcience commands what is ſimply evil, or forbids that which is abſolutely commanded, the man ſins whether he obeys or obeys not.
*ibid. n.*32.
How the Error of an abuſed Conſcience muſt be removed.
*l.*1. *c.*3.*r.*7.*p.*116.

Example.

An Example out of the Old Teſtament is not in all things ſufficient warrant for us. *l.*2.*c.*2.*r.*7.*n.*26.*p.*380.
The actions of good men in Scripture are not a competent warrant for our imitation, not only when they are reproved, but even when they are ſet down without a cenſure. *ibid. n.*27.*p.*380.
The actions of men in the Old Teſtament though atteſted and brought to effect by the providence of God, are not to be made examples alwaies by us.
*l.*2.*c.*2.*r.*7.*n.*28.*p.*381, & *p.*557.
Examples in matters of war are ever moſt dangerous precedents.
*ibid. n.*31.*p.*382.
A Law being changed, Examples which were given in proportion to that Law are not to be imitated.
*ibid. n.*32.*p.*382.
Examples are inſtead of a Rule, when there is none. *ibid. n.*40.*p.*386.
The greateſt uſe of Examples is in the interpretation of Laws, when the letter is equivocal or the Example doubtfull. *l.*2.*c.*2.*r.*7. *n.*44.*p.*387.
what Examples may be ſafely followed. *ibid. n.*47.*p.*387.
That Example is ſafe, where we find upon the Action the marke of Gods bleſſing. *ibid. n.*48.*p.*387.
In all matters of doubt, when the caſe on either hand is equal, ſo that the Conſcience cannot determine, there the Examples of good men are of great uſe to determine it. *ibid. n.*43.*p.*386.

Evil.

Inſtances of holy and great men that have done evil to the end that good might come of it. *l.*1. *c.*5. *r.*8. *n.*28. *p.*200.
When the Evils are ſubordinate and relative, the leſs may be done to prevent the greater. *l.*1. *c.*5. *r.*8. *n.*33.*p.*203.
the natures, cauſes and meaſures of Evil. *l.*1. *c.*5. *r.*8. *n.*34.*p.*204.
He that makes uſe of a material part of a ſin already prepared, to which he gives no conſent, and which he cannot help, does not evil for a good end.
*l.*1. *c.*5. *r.*8. *n.*37. *p.*205.
It is falſely ſaid by ſome, that ſome things are by God forbidden, becauſe they were before that act of God's unlawful. *l.*2. *c.*1. *r.*1. *n.*58. *p.*242.
of toleration of Evil.
*l.*2. *c.*2. *r.*7. *n.*11, 12. *p.*376.
To have a power of chuſing Evil is an imperfection and infelicity.
*l.*4. *c.*1. *r.*1. *n.*5. *p.*441.
He does not eſchue Evil that does not doe it, but he that chuſeth not to doe it. *l.*4. *c.*1. *r.*1. *n.*16. *p.*445.

Everlaſting.

That word among the Jews does not alwaies ſignifie eternal.
*l.*2. *c.*2. *r.*1. *n.*11. *p.*279.

Executioner.

An Executioner is not to refuſe to doe his office, if he know the priſoner unjuſtly condemned.
*l.*1. *c.*2. *r.*8. *n.*25. *p.*91. & *p.*82. *n.*7.
In what caſe the Criminal is to be Executioner againſt himſelf.
*l.*3. *c.*2. *r.*2. *p.*63.

Exceptio *firmat regulam in non exceptis.* *l.*2. *c.*2. *r.*6. *n.*31. *p.*346.

Concerning the *Excellency* of things, and how to be eſtimated.
*l.*3. *c.*3. *r.*6. *n.*7. *p.*181.

Exceſs, reaſons againſt it.
*l.*3. *c.*2. *r.*9. *p.*127.

Excommunication.

Concerning it. *l.*3. *c.*1. *r.*1. *n.*19. *p.*14. & *l.*3. *c.*2. *r.*2. *n.*14, 15, 16. *p.*63.
what are the effects of it.
*l.*3. *c.*4. *r.*1. *n.*15, 16. *p.*219.
See the title *Keys*, in K.
A King cannot be excommunicated.
*l.*3. *c.*4. *r.*7. *n.*4, 5. *p.*241.
the Primitive Biſhops never durſt think of Excommunicating Kings.
*l.*3. *c.*4. *r.*7. *n.*7. *p.*242.
Of S. Ambroſe Excommunicating Theodoſius: Babylas, the Emperour Decius: Athanaſius, the Prefect of Lybia: Chryſoſtome, the Empereſs Eudoxia, *&c.* *l.*3. *c.*4. *r.*7. *n.*8, 9. *p.*242.
but the Church may deny the Sacrament to evil Princes. *ibid. n.*10. *p.*243.
Excommunication the greater and the leſſer. *ibid. r.*8. *n.*1. *p.*247.
Excommunication improperly ſo called, when we refuſe to communicate with one that is not excommunicated.
*ibid. n.*3. *p.*248.
this is not warrantable. *ib. n.*4.
Neither the People or King are to be excommunicated. *ib. n.*7. *p.*250.
In what caſes it is lawfull for the people to ſeparate from their Biſhops or Prieſts. *l.*3. *c.*4. *r.*8. *n.*9. *p.*250.
of the leſſer Excommunication.
*ibid. n.*12. *p.*251.
The Biſhop cannot Excommunicate any of the Princes ſervants without his leave. *ibid. n.*14. *p.*252.
In the leſſer Excommunication the internal and ſpiritual part depends not upon the Princes conſent, but the external does. *ibid.*
of the greater Excommunication.
*l.*3. *c.*4. *r.*8. *n.*18. *p.*254.

The

The Bishop in inflicting the greater Excommunication depends not upon the Civil power. *ibid. n.18. p.254.*

The reason why the Bishop depends upon the consent of the Civil power in the exercise of the lesser Excommunication & not of the greater *ib.n.19.p.254.*

Excommunication for an unjust cause binds not. *l.3.c.4.r.9.n.2.p.256.*

for a light cause binds before men but not before God. *ibid. n.3. p.256.*

In what cases Excommunication may be inflicted. *l.3.c.4.r.9.n.6.p.257.*

It should be the last remedy. *l.3.c.4.r.9.n.7.p.258.*

Unlawfull to Excommunicate any man for not paying the fees of Courts. *ibid. n.9.p.258.*

Spiritual censures must not be inflicted for temporal causes. *ibid.n.10.p.259.*

Excommunication *ipso facto* in a Law is not to be understood of the greater Excommunication. *ibid. n.11.p.259. n.13. p.260.*

We may not communicate with those that are justly Excommunicated. *l.3.c.4.r.10.p.261.*

When the Church excommunicates those that communicate with the excommunicated, she only inflicts the lesser Excommunication, and binds only externally. *l.3.c.4.r.10.n.4.p.261.*

The Church by Excommunication intends not to forbid any such entercourse or communion to which we stand preoblig'd by the Law of Nature, God, or the supreme Civil power. *l.3.c.4.r.10.n.5.p.262.*

We may lawfully converse with an Excommunicate person. *ib. n.7. p.263.*

To what restraint of conversation Excommunication does oblige. *ibid. n.9. p.263.*

What usage Excommunicated persons are to have from us. *ibid.n.10.p.264.*

What is the design of the Church when she inflicts censures on those that communicate with the excommunicated. *ibid. n.12. p.264.*

Hildebrand did ill to Excommunicate the Emperour Henry and his Subjects. *ibid.*

It is dangerous to communicate with those that are Excommunicated. *ibid. n.13.p.265.*

F.

OF *Fables* and fictions, whether lawfull. *l.3.c.2.r.5.n.19. p.94.*

Fast.

In the first ages of the Christian Church they kept their Fasts with liberty. *l.3.c.4. r.13. n.15. p.280.*

Fasts observed by the Ancients were divers. *l.3. c.4.r.13.n.17.p.281.*

Concerning the weekly Fasts, Saturday and Friday. *ibid. n.23.p.284.*

The Rogation Fast and Ember-week. *ibid. n.23.p.284. & ibid.r.15. n.11. p.294.*

Fasting, of its necessity and abuse. *l.3. c.4. r.17. n.18. p.307.*

It is not to be offered to God for good works, but with them. *ibid.*

The Roman Fasts superstitious. *ibid. n.19. p.308.*

The niceties of the Roman Church about Fasting. *l.3.c.4.r.17.n.21.p.310.*

In what cases, and what persons are tyed to the observation of Ecclesiastical Fasts. *l.3. c.4. r.19. n.4.p.317.*

The sick and weak are exempted from the Laws of Fasting. *ibid.n.5.p.317.*

Laws of Fasting are sparingly to be impos'd. *ibid. n.7.p.318. & 322.*

Needless scruples about fasting. *ibid. n.8.p.318, 319.*

The usefulness of Fasting. *ibid. n.9. p.321.*

The Canon Law forbids a fast of two or three days, or that is beyond our strength. *ibid.*

Little use of the Flesh Fast. *ibid. n.10. p.322.*

Fish as delicious and luxurious as flesh. *ibid.*

Fasts of many days continuance ought not to be imposed severely. *l.3. c.4. r.19. n.12. p.322.*

Unless it be by the Civil power. *ibid. n.13. p.323.*

Too much abstinence in Fasting brings sometimes madness. *l.3. c.4. r.20. n.17. p.336.*

Of Fasting. *l.2. c.3.r.14. n.55. p.505.& l.2. c.3. r.8. n.1,2. &c. p.417.*

Reasons proving it to be a duty. *l.2. c.3. r.8. n.3. p.418.*

Of the manner of its obligation different from other duties. *l.2. c.3. r.8. n.6. p.419.*

The words of S. Chrysostome concerning Fasting explained. *l.3. c.1. r.1. n.18. p.13.*

Words of S. Basil concerning Fasting explained. *ibid.*

The Ecclesiastical Laws concerning Fasting do not oblige in case of sickness or the like. *l.3. c.1. r.2. n.8. p.28.*

The Primitive Church did appoint Fasting days. *l.3. c.4. r.4. n.3. p.226.*

Of the Fast of Lent and the weekly Fasting days. *l.3. c.4. r.13. n.4. p.273.*

Testimonies of the Fathers shewing that the Church had no Fasts but voluntary. *ibid. n.9. p.276, 278.*

Of breaking Fasting days. *l.3. c.1. r.1. n.18. p.13. & ibid. n.29. p.20.*

Faith.

It is not lawfull to declare those things that are proved out of Scripture by probable arguments to be articles of Faith. *l.3. c.4. r.17. n.10,11,12. p.305.*

The Catholic Church in matters of Faith is a Witness, not a Judge. *l.3. c.4. r.21. n.1. p.356.*

Religion and Faith are not within the power of a Father. *l.3. c.5. r.4. n.1. p.369.*

The Jews believed God would not punish the sin of the thoughts, unless it were against the Faith. *l.4. c.1. r.5. n.18. p.500.*

Faith and reason are not opposite. *l.1. c.2. r.3. n.20. p.46.*

What Faith is. *ibid.*

Faith is in other Sciences besides Theologie. *ibid. n.21.*

Faith it self is an act of reason. *ibid. n.24. p.47.*

What, Faith infused by God, is. *ibid. n.25. p.48.*

How Faith and Reason serve one another. *l.1. c.2. r.3. n.52. p.57.*

The foundation of Faith laid by Christ and his Apostles is plain and easie and hath but a few articles. *l.2. c.3. r.14. n.64. p.509.*

The Symbols of Faith in the New Testament are short. *l.2. c.3. r.14. n.65. p.510.*

The Apostles baptiz'd Proselytes upon the confession of a very few Articles. *ibid. n.66. p.511.*

Justin Martyr affirms, that if any man should even then (in his times) live according to the Law of Moses, so that he believes in Jesus Christ crucified, he shall be saved. *ibid. n.67. p.512.*

The Primitive Fathers required the belief of a few Articles. *l.2. c.3. r.14. n.67,68. p.512.*

It was the sense of the first ages, that the Creeds should not be enlarged. *ibid. n.69. p.513.*

The Ancient Church in the Creed of Constantinople and Nice added only new explications, no new Articles. *ibid. n.73. p.515.*

Every Conclusion drawn from a believed truth is certain but not necessary. *ibid. n.74. p.515.*

Many things are necessary to be believed upon the account of obedience more then upon the account of Faith. *ibid. n.76. p.516.*

About matters of Faith no mans Conscience ought to be pressed with any authority, but of Christ enjoyning or the Apostles declaring what is necessary. *ibid. n.83. p.518.*

Faith is to be kept even with an Enemy. *l.3. c.2. r.5. n.19. p.94.*

but not if the person engaging had not competent power. *ibid. n.19. p.95.*

decrees made by the Emperours concerning matters of Faith. *l.3. c.3. r.7. n.14. p.206.*

Father.

Children ought to obey their Parents or Fathers. *l.3. c.5. r.1. n.1. p.359.* three reasons to enforce the Duty. *ibid. n.1,2,3. p.359, 360.*

If a Father and Son being partners in a Crime be to endure torment to force confession, the Law commands the Son to be tormented first. *l.3. c.5. r.1. n.2. p.360.*

Fathers are to us in the place of God. *ibid. n.2. p.359.*

Fathers bleſs their children.
l.3.c.5.r.1.n 3.p.360.
The Curſes of Fathers are Ominous. ibid.n.3.p.361.
A Fable teaching children to obey their Fathers commands. l.3.c.5.r.1.n.4.p.361.
It is a ſin for Children to reject the Counſels or holy precepts which their Fathers give them. ibid.n.7.p.362.
The power of Fathers over their children. l.3.c.5.r.2.n.1.p.364.
An inſtrument of political peace. ib.
The Fathers power the fountain of the Royal. ibid.
The Judge is authoriz'd in the Law of Moſes to puniſh with death crimes committed againſt the private authority of a Father upon his ſingle teſtimony. ibid.n.2.p.364.
A Fathers Anger muſt be ſuch as muſt have Diſcipline for his end, not revenge. ibid.n.3.p.365.
Againſt a Fathers tyranny there is no remedy but in the civil power. ibid.n.3.
A Father muſt uſe moderation in chaſtiſing. ibid.
Children muſt maintain their Parents and Fathers. l.3.c.5.r.3.n.1.p.366.
Maintenance is a part of that honour that is due to Fathers. ib.n.2.p.367.
A Son is bound to maintain his indigent Father, though the Father be outlaw'd. ibid.
The indigent Father is to be relieved rather then the Son. ibid.n.3.p.367.
The Civil law permits the Father to ſell his Son for his neceſſary ſupport. l.3.c.5.r.3.n.4.p.368.
And if a Son deny it, the Law ties the Son to maintain his Father during the ſuit. ibid.n.5.p.368.
Religion and Faith are not within the Fathers power. ibid.r.4.n.1.p.369.
A child is not to be baptiz'd without his Fathers leave. ibid.
The religion of the Son muſt not prejudice the Fathers civil rights. ib.n.2.
A Father hath no authority after his death. l.3.c.5.r.6.n.1.p.372.
When their Fathers are dead the Sons owe much to the memory of them. l.3.c.5.r.6.n.2.p.372.
What regard we ſhould have to our dead Fathers. ibid.n.3.p.373.
The Argument in A. Gellius, that proves we ought not to obey the command of our Fathers, anſwered. l.3.c.5.r.7.n.2.p.374.
A Son is not to obey his Father in things impious. ibid.n.3.p.375.
though the Fathers command may be neglected, his authority muſt not. ibid.n.4.p.375.
if the Son tranſgreſs the Law by his Fathers command, his puniſhment is the more eaſie. ibid.n.5.
Velle non creditur, qui obſequitur imperio Patris aut Domini. ibid.
The Authority of Fathers over their children proved, with the meaſures thereof. l.3.c.5.r.7.n.4,5,6,7,8. p.375, & 376.
In what caſe the Son may complain of his Father to the Judge. ib.n.7.p.376.
It is not lawfull for Sons to enter into a ſtate of religion againſt their Fathers will. ibid.r.8.n.3.p.378.
Thomas Aquinas did. ibid.
A Son cannot withdraw himſelf from under his Fathers Government, and put himſelf under another. ibid.n.5.p.379.
it is forbid by the Council of Gangra. ibid.
S. Auguſtine and S. Ambroſe affirm that a Father cannot hinder his Son from going into a Monaſtery; but then it was not a perpetual bond, but only as a School for Education. ibid.n.6.p.379.
Inſtances ſhewing that Sons may not enter into a religious Order without their Fathers leave. ibid.n.6.p.380.
Charles the Great made a Law againſt it. ibid.
Children ſin, that marry againſt their Fathers will. l.3.c.5.r.8.n.7.p.381.
the Ancients judged ſuch marriages illegitimate. ibid.n.8.p.381.
the Law of Nature requires Sons to aske their Fathers leave in marriage. ibid.n.9.p.382.
Marriages made againſt the will of the Father were invalid by the civil Law. ib.
The Church ſometime did excommunicate thoſe that married without the conſent of their Fathers or Parents. ibid.n.11.p.384.
The conſent of Fathers or Parents is not eſſentially neceſſary to the validity of marriage. l.3.c.5.r.8.n.14.p.385.
though the conſent of the Father or Parents being wanting cannot invalidate the contract, yet it may hinder the poſſeſſion. ibid.n.16.p.387.
The Fathers natural power over the Son. ibid.n.17.p.388. His political power. ibid.n.18.p.389.
this later every Commonwealth hath power to extend or ſtreighten. ibid.n.19.p.389.
Of Exemption from the power of Fathers. ibid.n.20.p.390.
A Son is never exempted from his Fathers natural power. ibid. Of his political power the Laws determine the meaſure and period. ibid.
The Sons wife is in the Fathers power after marriage. ibid.n.21.p.390.
If a Son be a Magiſtrate, the Magiſtrate is exempted from the Fathers power, but not the Son. ibid.n.22.p.391.
If a Son enter into holy orders, it quits him not from his duty to his Father. ibid.n.23.p.391.
A Father cannot hinder the marriage of his children, if they are far gone in love, and he at firſt promoted it. ibid.n.27.p.392.
The Civil law puts not Sons under their Mother but their Father. ibid.n.28.p.393.
Some caſes in which a Father ought not to force his children to marry. ibid.n.33,34.p.396.
A man is bound to the duty of maintaining his Father, though he have made a vow of his eſtate to the Church. l.3.c.6.r.3.n.14.p.415.
Thoſe that doe to us all the duties of Fathers we are bound to as our Fathers. ibid.n.24.p.419.
the power that Fathers have over their children, and the reaſons of it. l.2.c.2.r.6.n.65.p.367.
The power of Fathers in inflicting puniſhments. l.3.c.2.r.6.n.7.p.109.
The fifth Commandment of honouring our Father and Mother the Jews accounted to the firſt table. l.2.c.2.r.6.n.8.p.329.

Fathers of the Church.

Of the authority of thoſe Books that were written by the ancient Fathers. l.3.c.4.r.22.n.4,5.p.355.
concerning their judgment in controverſies. l.1.c.4.r.10.n.1.p.162.
they cannot give ſufficient authority to a tradition. l.2.c.3.r.14.n.42.p.499.
the Primitive Fathers required the belief of a few articles. l.2.c.3.r.14.n.67,68.p.512.

Fear.

What influence Fear hath upon the morality of our actions. l.4.c.1.r.7.p.511.
In Divine Commandments no fear of temporal evil is an excuſe. l.4.c.1.r.7.n.2.p.512.
what influence Fear hath upon contracts, marriages, &c. ibid.n.7.p.514.
The Law calls nothing a juſt fear, but the fear of the greateſt evils, as death, &c. ibid.n.8.p.514.
Whether I am bound to keep my promiſe, which I make, fearing to loſe my life if I deny. ibid.n.9.p.515.
No reverential Fear can excuſe a ſin or nullifie a contract. ib.n.10.p.515.
why Fear hath upon our actions a different influence from other paſſions, as luſt, anger, &c. ibid.
Fear is the band of all laws. l.2.c.1.r.3.n.1.p.244.
even in good men Fear is the inſtrument of juſtice. ibid.n.6.p.246.
Fear the attendant of a guilty conſcience. l.1.c.1.r.2.n.14.p.19.
another Fear there is alwaies joyned with true peace of Conſcience. ibid.n.25.p.25.
It is lawfull to perſwade fools and children by Mormo's inſtead of arguments. l.1.c.2.r.6.n.19.p.80.
Fear abuſes the Conſcience into errour. l.1.c.3.r.1.n.4.p.100.
Of the Fears of a ſcrupulous Conſcience. l.1.c.6.r.5.n.9.p.216.

Feaſts.

The Apoſtles made no laws concerning Feaſts, ſaith Socrates. l.3.c.4.r.13.n.13.p.279.
of Feaſting, and its luxury and due meaſures. l.4.c.1.r.2.n.21.p.465.
Of thoſe that permit Drunkenneſs in their houſes at Feaſts. ibid.
Among the Romans works of neceſſity and charity were permitted on Feſtivals. l.2.c.2.r.6.n.57.p.363.

Fornication.

the congreſs of betrothed perſons is not Fornication before God. *l.3.c.5.r.8.n.16.p.387.*

Of thoſe Commonwealths that permit fornication and publick ſtews. *l.1. c.5.r.8.n.17.p.195.*

Fines *mandati ſunt diligenter cuſtodiendi.* *l.4.c.2.r.3.n.4.*

Free-will, and *Freedome.*

Of Free-will. *l.4.c.1.r.1.p.438,439. & 447, 448.*

It is conſequent to the weakneſs and blindneſs of our nature. *l.4. c 1. r.1. n.5. p.441.*

to grant Free-will does not diſparage the grace of God. *ibid.n.6.p.441.*

to have a power of chuſing evil is an imperfection and infelicity. *ibid. n.5. p.441.*

wherein conſiſts that freedome which the death of Chriſt hath put us into. *l.3. c.1. r.1. n.28. p.18.*

The *Fifth* Commandment of honouring our Father and Mother, the Jews accounted to the firſt table. *l.2. c.2. r.6. n.8. p.329.*

What influence *Fraud* has upon contracts. *l.4.c.1.r.6. n.22.p.510.*

The precepts of *Forgiveneſs* and charity are not againſt executing penal Laws. *l.3.c.2.r.1.n:3.p.54.*

It is lawfull to perſwade *Fooles* and children by Mormo's inſtead of arguments. *l.1. c.2. r.6. n.19.p.80.*

G.

THE *Gallican* Church is ruled by thoſe Eccleſiaſtical Laws that their Kings have made. *l.3. c.3. r.5. n.7.p.177.*

Gaming.

Rules to be obſerved in Gaming. *l.4. c.1. r.2. n.32. p.473.*

Of Gaming. *l.4. c.1. r.2. n.27. p.470.*

Of Gaming-houſes and the puniſhments by ſome Laws inflicted. *ibid. n.28.p.470.*

In what caſes Gaming is lawfull. *ib.*

whether it be lawfull to play only to recover ones loſs. *ibid.n.34.p.476.*

whether it be lawfull to Game when I give away all I win to the poor. *ibid. n.35. p.476.*

whether a man has right of poſſeſſion to what he wins by Gaming. *ibid. n.36. p.477.*

not lawfull to Game for money. *ibid. n. 37. p.478.*

young men ſhould not game. *ibid. n.38. p.479.*

Gerſon.

His miſtake. *l.3.c.4.r.9.n.12.p.259.*

God.

that there is a God, proved by Conſcience. *l.1. c.1. r.1. n.4.*

He rules in our minds by Faith and Conſcience; the difference of thoſe two faculties. *ibid. n.10.p.5.*

Juſtice and Truth are the ſame in Us and in God. *l.1. c.2.r.3. n.38. p.52.*

God hath ſaid it, therefore it is true, is the greateſt reaſon in the world. *ibid.n.65.p.61.*

to obey God never hath an unavoidable dilemma. *l.1. c3. r.3. n.7. p.110.*

It was ill ſaid by thoſe that affirmed that God cannot change the Law of Nature. *l.2. c.1. r.1. n.49. p.239.*

Nothing is unlawfull antecedently to Gods Commandment. *l.2. c.1. r.1. n.58. p.242.*

Our Duty to God is ſupreme. *l.2. c.1. r.9. n.12. p.268.*

the meaſures of our Love towards God. *l.2. c.3. r.12. n.1. p.449.*

God is to be worſhipped by nothing but what himſelf appointed. *l.2. c.3. r.13. n.7. p.457.*

Plato taught that they were not to be ſuffered in a Commonwealth, that ſaid God was the Author of evil. *l.3. c.3. r.4. n.10. p.166.*

The grace of God is not diſparaged by the doctrine of Free-will. *l.4. c.1. r.1. n.6. p.441.*

In what manner it is to be underſtood, that a man ſhould make the glory of God the end of every action. *l.4. c.2. r.1. n.3.*

It is not neceſſary that all our actions be alwaies actually directed to the glory of God. *ibid. n.4.*

Rules concerning the directing all our actions to the glory of God. *l.4. c.2. r.1. n. 3, 4, 5.*

How the Glory of God is to be reconciled with thoſe other inferior ends which God allows us to propoſe to our actions. *l.4. c.2. r.2. n.1.*

whether it be lawfull to ſerve God for any end leſs then himſelf, *viz.* riches, honour, *&c.* *ibid. n.5.*

It is not lawfull to doe a thing for temporal regards with poſitive neglect of the glory of God. *ibid. n.6.*

Rules ſhewing when and how it is lawfull to ſerve God for temporal ends. *ibid.*

In what ſenſe it is true that God muſt be ſerved for his own ſake. *ibid.n.7.*

he that loves God above all other things loves him for himſelf. *ib. n.9.*

Rules to know when we love God for his own ſake. *ibid. n.8,9.*

God is the Fountain of all Laws. *l.2. c.2. r.7. n.1.p.372.*

In Gods ſervice a mere negative action does nothing. *l.4.c.1.r.1.n.15.p.444.*

Of the morality of thoſe kind of actions. *ibid.n.15,16.p.445.*

Good.

No man can make the meaſures of Good and evil. *l.1. c.1. r.1. n.20. p.8.*

Good and bad is before the act of Conſcience. *l.1. c.2. r.9. n.12. p.98.*

Such collateral conſiderations as belong to the goodneſs or badneſs of an action. *l.1. c.4. r.9. n.10. p.160.*

Inſtances of Holy perſons, that have done evil that good may come of it. *l.1. c.5. r.8. n.28. p.200.*

A private evil is not to be done for a private good, but for a publick it may. *l.1. c.5. r.8. n.31. p.203.*

an evil in nature may be done for a good in morality. *ibid. n.32. p.203.*

every thing that is not intrinſecally evil, if it be directed to a good end, is good, unleſs it be ſpoiled by ſome intervening accident. *ibid. n.33.p.204.*

all the meaſures of Good and evil are to be taken by the Law of the Goſpel. *l.2. c.2. r.7. n.3. p.373.*

whatſoever is againſt the Law of the Goſpel may not be permitted directly for the obtaining a greater good, but may for the avoiding a greater evil which otherwiſe cannot be avoided. *ibid. n.9. p.375.*

We muſt not judge of the goodneſs of actions by the event. *l.3. c.3. r.4. n.5. p.162.*

An action is good or bad by the conformity to the rule, but a man by his own will. *l.4. c.1. r.1. n.1. p.438.*

Of that ſaying, It is lawfull to doe evill that Good may come of it. *l.1. c.5. r.8. n.4,20. p.197. & l.4. c.2. r.1. n.8.*

whether the leſſer evil in reſpect of the greater hath the nature of Good. *l.1. c.5. r.8. n.25. p.199.*

Of *Godfathers* and *Godmothers* at Baptiſme. *l.3. c.4. r.15. n.5. p.289.*

Goſpel.

All the meaſures of good and evil are to be taken by the law of the Goſpel. *l.2. c.2. r.7. n.3. p.373.*

whatſoever is againſt the Law of the Goſpel may not be permitted directly for the obtaining a greater good, but may for the avoiding a greater evil which otherwiſe cannot be avoided. *l.2. c.2. r.7. n.9. p.375.*

The Commandments of the Goſpel are affirmative, and why? *l.2. c.3. r.1. n.7. p.390.*

The Goſpel exceeds all other inſtitutions in the manner of its teaching. *l.3. c.4. r.20. n.8. p.327.*

the difference between the Goſpel and the Law. *l.4. c.1. r.1. n.24. p.450.*

Government.

Nihil aliud eſt Imperium niſi cura ſalutis æternæ. *l.3. c.3. r.7. n.6. p.202.*

the Original of Government. *l.3. c.2. r.7. n.1,2. p.46.*

In their diſputations of Government the Roman and Greek writers modelled their principles to the popular governments they lived under. *l.3. c.1. r.7. n.5. p.47.*

no change of Government or alteration

tion of ſentence is to be made upon pretence of any ſecret counſel of God.
*l.*3. *c.*2. *r.*1. *n.*14. *p.*57.

H.

Heretics and others have falſly pretended divers books to be written by Apoſtles and Apoſtolical men.
*l.*2. *c.*3. *r.*14. *n.*35. *p.*492.

It is not alwaies lawfull to *hear* good things and true. *l.*1. *c.*2. *r.*3. *n.*67. *p.*61.

Heart.

We muſt take care that hardneſs of Heart be not miſtaken for peace of Conſcience. *l.*1. *c.*1. *r.*2. *n.*25. *p.*24.
the Heart is principally regarded by God in all actions of obedience.
*l.*2. *c.*3. *r.*5. *n.*2. *p.*405.
Sin is forbidden in the Heart.
*l.*2. *c.*3. *r.*7. *n.*1. *p.*414.

Heathen.

The Ceremonies which the Primitive Church borrowed from the Heathen were ſuch as had no relation to doctrine.
*l.*2. *c.*3. *r.*19. *n.*13. *p.*552.
Ceremonies ought with great caution to be taken up in imitation of the Heathen. *ibid. n.*14. *p.*553.
In what ſtate Heathens are after death.
*l.*4. *c.*1. *r.*5. *n.*1. *p.*493.

Heir.

The Heir or Donor is to be eaſed in doubts, unleſs it make the gift good for nothing. *l.*3. *c.*6. *r.*1. *n.*15. *p.*405.
Haredem teneri ad pœnam, ad quam defunctus fuerat condemnatus.
*l.*3. *c.*2. *r.*7. *n.*11. *p.*121.
In what ſenſe that propoſition and the contrary are both true. *ibid.*

Of King *Hezekiah*'s breaking the brazen Serpent. *l.*3. *c.*6. *r.*7. *n.*3. *p.*432.

Henry VIII. his reformation in England was never the worſe becauſe he propoſed to himſelf poſſibly an evil end.
*l.*3. *c.*1. *r.*3. *n.*5. *p.*33.

Hildebrand did ill in excommunicating the Emperour Henry and his Subjects. *l.*3. *c.*4. *r.*10. *n.*12. *p.*264.

Holy daies.

Of the obſervation of them.
*l.*2. *c.*2. *r.*6. *n.*55. *p.*361.
The Eaſtern Churches and Diſciples of S. John kept Eaſter-day not on the day of the week on which Chriſt roſe, but on the full Moon, whatſoever day it fell upon. *ibid.*

Honour.

It comprehends maintenance.
*l.*3. *c.*5. *r.*3. *n.*2. *p.*367.
of the Honour due to Churchmen.
*l.*3. *c.*3. *r.*6. *n.*18. *p.*187.
how it is lawfull to ſtrive for Honour.
*l.*4. *c.*2. *r.*2. *n.*2.
all deſigns of Honour muſt be leſs principal then, and ſubordinate to, religion. *ibid. n.*4.

When a thing is diſputed by good and learned men on both ſides, to doe either is not againſt publick *Honeſty*.
*l.*2. *c.*2. *r.*3. *n.*57. *p.*309.

Reaſons why *Humility* and piety are the beſt diſpoſitions to the underſtanding the ſecrets of the Goſpel.
*l.*1. *c.*2. *r.*3. *n.*57. *p.*59.

Of *Huſhai* his dealing falſly with Abſalom. *l.*1. *c.*5. *r.*8. *n.*28,30. *p.*200,202.

Hypocrites excuſe all their open ſins with the pretence of Conſcience.
*l.*1. *c.*1. *r.*3. *n.*1. *p.*26.

I.

OF *Jephthah*'s vow out of the Jewſtory. *l.*3. *c.*3. *r.*8. *n.*1. *p.*208.

Of the Cuſtome of bowing at the name of *Jeſus*. *l.*3. *c.*4. *r.*15. *n.*4. *p.*289.

Jews.

their religion upon their Sabbaths and feaſts. *l.*2. *c.*2. *r.*6. *n.*58. *p.*363.
The Jews in their writings againſt the Primitive Chriſtians never charged them with worſhipping Images.
*l.*2. *c.*2. *r.*6. *n.*37. *p.*351.
The Righteouſneſs of the Chriſtians muſt exceed the Jews.
*l.*2. *c.*3. *r.*20. *n.*3. *p.*555.

S. *Ignatius* his Epiſtle to the Philippians is ſuppoſititious.
*l.*3. *c.*4. *r.*13. *n.*12. *p.*278.

Ignorance.

it abuſes the Conſcience into Errour.
*l.*1. *c.*3. *r.*1. *n.*3. *p.*100.
of vincible ignorance.
*l.*4. *c.*1. *r.*6. *n.*9, 10. *p.*505.
we cannot be ignorant of things neceſſary to ſalvation without ſin.
*l.*4. *c.*1. *r.*5. *n.*1,4. *p.*493.
No man can be innocently ignorant of what all Nations and men believe and publickly profeſs.
*l.*4. *c.*1. *r.*5. *n.*3. *p.*494.
of that which is by ſeveral Churches and ſocieties of wiſe and good men diſputed, a man may be innocently ignorant. *l.*4. *c.*1. *r.*5. *n.*5. *p.*495.
A man may not be innocently ignorant of that which is his ſpecial duty.
*ibid. n.*7. *p.*495.
what is that diligence, after which Ignorance is excuſable.
*l.*4. *c.*1. *r.*5. *n.*11. *p.*497.
what is probable Ignorance.
*ibid. r.*12. *p.*497.
whether is worſe, to ſin willingly, or by Ignorance. *ibid. n.*16. *p.*498.
Some ſins of ignorance worſe then ſome ſins of malice. *ibid. n.*18. *p.*499.
What ignorance Antecedent and Concomitant are, and what influence they have upon our actions.
*l.*4. *c.*1. *r.*6. *n.*2,7. *p.*500.
how long infant ignorance or childiſhneſs can excuſe, ſo as their actions ſhall be reckoned neither to vertue nor vice.
*l.*4. *c.*1. *r.*6. *n.*4. *p.*501.

Illuſion is hard to be diſtinguiſhed from Conſcience.
l. 1. *c.* 1. *r.* 3. *n.* 5. *p.* 28.

Images and *Idolatry.*

The Jews were forbid to make an Image, as a προφυλαξις to the Law of Idolatry. *l.*2. *c.*2. *r.*3. *n.*42. *p.*304,313.
though the making or having an Image were unlawfull to the Jews, yet not to the Chriſtians.
*l.*2. *c.*2. *r.*6. *n.*11. *p.*330.
it is not lawfull to worſhip the true God by an Image. *ibid. n.*21. *p.*338.
Idolatry is a ſin againſt the Law of Nature. *ibid. n.*23. *p.*338.
To worſhip falſe gods, and to give divine worſhip to an Image, is one and the ſame kind of formal Idolatry.
*ibid. n.*25. *p.*339.
S. John was not permitted to give divine worſhip to an Angel who repreſented the perſon of God. *ib. n.*27. *p.*341.
A Definition of Idolaters out of S. Auſtin. *l.*2. *c.*2. *r.*6. *n.*28. *p.*343.
how an Image can be an idol.
*ibid. n.*30. *p.*344.
The difference between an Image and an Idol. *ibid. n.*30. *p.*345.
That which forbad the Jews to make or have Images was no moral Law.
*ibid. n.*31. *p.*347.
The worſhip of Images is againſt the analogy of the Goſpel.
*ibid. n.*32. *p.*348.
The Primitive Chriſtians were great haters of Image-worſhip.
*l.*2. *c.*2. *r.*6. *n.*33. *p.*349.
The Council of Eliberis decreed againſt pictures in Churches.
*ibid. n.*35. *p.*350.
the Jews in their writings againſt the Chriſtians of the firſt ages never charged them with worſhipping Images, which ſhews then they did not worſhip them.
*ibid. n.*37. *p.*351.
In the firſt part of the Thalmud written about *A. D.* 200. there is no reproof to Chriſtians for Images: but in the ſecond part written about *A. D.* 500. they frequently charge it upon them.
ibid.
The Heathens did not believe their Images to be Gods, and worſhipped them with no other but relative worſhip.
*l.*2. *c.*2. *r.*6. *n.*38. *p.*351.
only the ruder part of them. *ibid. p.*352.
The culpable uſage of Images by modern Papiſts. *l.*2. *c.*2. *r.*6. *n.*39. *p.*353.

The

The worſhip of Images never prevailed any where but among a degenerating people. *ibid.n.*40. *p.*354.
The ancient Romans worſhipped their Gods 170 years without Images. *ibid.*
Idolatry hindred by Sacrifices. *l.*2. *c.*3. *r.*13. *n.*30. *p.*476.

Of the *Imitation* of Chriſt. *l.*2. *c.*2. *r.*7. *n.*35. *p.*383.

Summum ejus eſſe Imperium, *qui ordinario juri derogare valeat.* *l.*3. *c.*3. *r.*6. *n.*25. *p.*192.

Impudence often the attendant of an evil Conſcience. *l.*1. *c.*1. *r.*2. *n.*13. *p.*19.

Inceſt.

Inceſt taught by the Devil ſpeaking out of Fire. *l.*2. *c.*2. *r.*3. *n.*23. *p.*295.
the notation of the word. *ibid. n.*24. *p.*296.
A ſtrange caſe happening at Venice of an inceſtuous marriage. *l.*1. *c.*3. *r.*8. *n.*3. *p.*118.

Of the word *Inſtitutio.* *l.*2. *c.*3. *r.*9. *n.*4. *p.*421.

Signs of difference, whereby we may, in a mixt *Intention*, know which is the principal ingredient. *l.*1. *c.*2. *r.*5. *n.*30. *p.*71.

Indifferent.

Things indifferent may be miniſteries of religion, but no parts of it. *l.*3. *c.*4. *r.*20. *n.*12. *p.*331.
Actions in their phyſical capacity are negatively indifferent. *l.*4. *c.*1. *r.*1. *n.*14. *p.*444.
Acts omitted are oftentimes indifferent. *ibid. n.*15. *p.*444.
all acts that paſs without any conſent of the will are indifferent. *ibid. n.*17. *p.*446.
Of Indifferent actions, what are ſuch. *ibid. n.*16, 17. *p.*445.
No action of the will is indifferent. *ib. n.*18. *p.*446.

Intereſt

renders the Conſcience ſuſpected, if it be guided by it. *l.*1. *c.*1. *r.*3. *n.*6. *p.*29.
Intereſt is ſometimes on the ſide of Truth. *ibid.*
How to diſcern when it is joined with Truth. *ibid.*

Of *Inconſideration.* *l.*4. *c.*1. *r.*6. *p.*508.

Interpretation.

Laws that are doubtfull are rightly interpreted by examples. *l.*2. *c.*2. *r.*7. *n.*44. *p.*387.
Rules of the interpretation of Laws by conſequence. *l.*2. *c.*2. *r.*7. *n.*8. *p.*400.
When any condition intrinſecal to the duty of an affirmative precept is impoſſible or cannot be ſupplied, the duty it ſelf falls without interpretation. *l.*2. *c.*3. *r.*11. *n.*15. *p.*446.
Laws are to be interpreted with reſpect to the mind of the Lawgiver. *l.*3. *c.*6. *r.*1. *n.*1. *p.*398.
In what ſenſe and manner. *ibid. n.*3. *p.*399.
See more Letter *L.* word *Laws.*
In interpreting the Commandments of God, we muſt chuſe that ſenſe which moſt promotes the end of the commandment. *l.*3. *c.*6. *r.*1. *n.*10. *p.*403.
Of the favourable interpretation of Laws. *l.*3. *c.*6. *r.*1. *n.*15. *p.*405.
Of favourable interpretation in inflicting puniſhments. *ibid. n.*16.
All good Laws admit interpretation in ſome caſes. *ibid. n.*17.
In matters of favour and pietie the ſenſe of the Laws is to be extended by interpretation. *ibid. n.*18. *p.*406.
When the Lawgiver interprets his own Law, he does not take off, but remove the obligation. *l.*3. *c.*6. *r.*2. *n.*2. *p.*408.
The power of interpreting Laws muſt be uſed with nobleneſs, not fraud. *ibid. n.*4. *p.*408.
The Laws are not to be bended by interpretation but upon great and juſt cauſes. *ibid. n.*5. *p.*409.
The interpretation of Laws made by Judges is nothing of Empire and power. *ibid. n.*7. *p.*410.
Judged caſes are the beſt indication of the meaning of a Law. *l.*3. *c.*6. *r.*6. *n.*3. *p.*428.
In the doubtfull interpretation of Laws, Cuſtomes are as good as Laws. *ibid.*
A King is *Dominus Legum*, and therefore may intervene between Equity and ſtrictneſs by interpretation. *l.*3. *c.*6. *r.*2. *n.*3. *p.*408.

Judge.

A Judge muſt proceed according to the proceſs of Law, though contrary to his own private Conſcience. *l.*1. *c.*2. *r.*8. *n.*7. *p.*82.
A Judge may not proceed upon the evidence of an inſtrument, which he produced privately, but was not produced in Court. *ibid. n.*7. *p.*83.
what a Judge is to doe in caſe the evidence upon Oath is contrary to his own private Knowledg. *ibid. n.*8. *p.*84.
A Judge may not doe any publick act againſt his own private Conſcience. *ibid. n.*9, 10. *p.*85.
A Judge having ſeen a ſtone in Court thrown at his brother Judge, proceeded to ſentence upon the intuition of the fact, and ſtayed not for the ſolemnities of the Law. *ibid. n.*14. *p.*86.
Concerning the double capacity of a Judge. *ibid. n.*24. *p.*90.
Sententia à Judice non ſuo lata, nulla eſt. *l.*3. *c.*1. *r.*3. *n.*4. *p.*33.
The interpretation of Laws made by Judges is nothing of Empire and Power. *l.*3. *c.*6. *r.*2. *n.*7. *p.*410.
Judged caſes are the beſt indication of the meaning of a Law. *l.*3. *c.*6. *r.*5. *n.*3. *p.*428.
The Judges do by their ſentences beſt convey the notice of a cuſtome. *ib.*

Judgment.

Three degrees of practical Judgment. *l.*1. *c.*2. *r.*4. *n.*1. *p.*62.
The virtual Judgment, that is a natural inclination paſſing forth into habit or cuſtom, is not a ſtate of good, by which one is acceptable to God. *ibid. n.*6. *p.*63.
This diſpoſition ſecures not againſt temptation. *ibid. p.*63.
A formal Judgment, that is, deliberation of the underſtanding and choice of the will, is required to the conſtitution of a right and ſure Conſcience. *ibid. n.*7. *p.*64.

The *Judicial* Law of Moſes is annulled. *l.*2. *c.*2. *r.*3. *n.*1. *p.*286.

Lex Julia. *l.*3. *c.*2. *r.*7. *n.*7. *p.*118.

Juſſio and *Mandatum*, how diſtinguiſhed. *l.*4. *c.*1. *r.*2. *n.*7. *p.*458.

Whatſoever is againſt charity cannot be the effect of *Juſtice.* *l.*3. *c.*2. *r.*1. *n.*5. *p.*54.

That ſaying of *Juſtin Martyr* explicated, τὸ κατὰ φύσιν βίων ἀδύνατον παντελῶς εἶναι. *l.*2. *c.*2. *r.*4. *n.*10. *p.*322.

Juriſdiction.

Of the word. *l.*3. *c.*4. *r.*1. *n.*5. *p.*213.
It includes Empire. *ib.*
S. Chryſoſtom proves the office of a Biſhop to be more difficult then that of a King, becauſe it hath no juriſdiction. *ibid. n.*7. *p.*214.
The High prieſt under the Law of Moſes had a proper formal Juriſdiction, which the Chriſtian Church hath not. *ibid. n.*8, *p.*215.
The Apoſtles did exerciſe juriſdiction, but it was in an extraordinary and miraculous way. *ibid. n.*9. *p.*216.
The Church hath an analogical Juriſdiction. *ibid. n.*11. *p.*217.
How the power of the Keys differs from proper Juriſdiction. *ibid. n.*13. *p.*217.
There is no Juriſdiction in the power of the Keys. *ibid. n.*14. *p.*218.
To deny the Sacrament to the unworthy is not an act of Juriſdiction but Charity. *l.*3. *c.*4. *r.*7. *n.*10. *p.*243.

Incorporalia *ſunt individua.* *Pref. pag.* 12.

K.

Καθαρσιεύειν, what it means. *l.3. c.3. r.1. n.5. p.133.*

Keys.

Of the power of the Keys. *l.3. c.4. r.1. n.11. p.217.*

Wherein the power of the Keys differs from proper jurisdiction. *ibid. n.13. p.217.*

If they are not rightly used they neither bind nor loose. *ibid.*

There is no jurisdiction in the power of the Keys. *ibid. n.14. p.219.*

That power is only a suspension of their own act by Ecclesiastics. *ibid. n.15. p.219.*

Kill.

The reason why it is lawfull to kill a man in my own defence. *l.1. c.5. r.8. n.38. p.206.*

The Commandment that forbids to kill is not broken by the Authors of a just war, nor execution upon Malefactors. *l.3. c.2. r.1. n.18. p.59.*

King.

The Edicts of Kings are by Gratian put among the Laws of the Church. *l.3. c.3. r.5. n.4. p.175.*

The Gallican Church is ruled by those Laws Ecclesiastical that their Kings have made. *l.3. c.3. r.5. n.7. p.177.*

Instances to prove that the Ecclesiastics are under the jurisdiction of the Civil or Kingly power. *l.3. c.3. r.6. n.3. p.179.*

What is to be done when the command of the King and Bishop enterfere. *ibid. n. 26. p.192.*

A King that commands to the Guard is to be obeyed before a Bishop that commands to goe to Divine service. *ibid. n.27. p.193.*

In external actions the command of the King is to be obeyed before the command of the Church. *ibid.*

The King hath jurisdiction in causes internal and spiritual. *ibid. r.7. n.2. p.200.*

The King is by God appointed to be an Overseer, Governour, Father and Protector over his Church. *l.3. c.3. r.7. n.6. p.202.*

The King ought to determine what doctrines are to be taught the people, and what are to be forbidden. *ibid. n.13. p.205.*

Every article of Religion that the King allows is not to be accounted a part of the true religion. *ib. n.16. p.207.*

The King must govern the Church by Church-men. *l.3. c.3. r.8. n.1,2. p.208.*

Good Kings use to verifie the judicial acts of the Church. *ib. n.3. p.208.*

but freely, not by necessity. *ibid. n.4, 6. p.209, 210.*

Kings are not bound to execute the Decrees of the Church. *l.3. c.3. r.8. n.5. p.209.*

The difference between the Kingly and Ecclesiastical power. *l.3. c.4. r.1. n.1. p.211.*

Kings obey the Laws of the Church. *l.3. c.4. r.6. n.1. p.237. & n.5. p.239.*

The Example of Kings prevails much. *l.3. c.4. r.6. n.4. p.238.*

In what manner Kings were bound by the Canons of the Church under the old Testament. *ib. n.6. p.240.*

A King cannot be excommunicated. *l.3. c.4. r.7. n.3. p.241.*

The Primitive Bishops never durst think of excommunicating Kings. *ibid. n.7. p.242.*

The Church may deny the Sacrament to evil Kings. *l.3. c.4. r.7. n.10. p.243.*

The King though unworthy must not be denied the Sacrament, if he be instant for it. *ibid.*

A Church-man though an Apostle must be subject to the King. *l.3. c.3. r.6. n.1. p.178.*

Penances cannot be inflicted on the King against his will. *l.3. c.4. r.7. n.12. p.244.*

Some Kings have received hurt by such Penances. *ibid. n.13. p.245.*

Kings may not be publicly reprov'd. *ibid. n.14. p.245.*

The old Prophets did, but mere Priests never did reprove Kings. *ibid. n.16. p.246.*

How Bishops and Ministers should carry themselves in the reproof of Kings. *ibid. n.18. p.246.*

The King nor the people cannot be excommunicated. *l.3. c.4. r.8. n.7. p.250.*

The Hebrew Kings had power to cause the Malefactors body to hang all night on the tree, though the Laws forbid it, say the Rabbins. *l.3. c.6. r.1. n.16. p.405.*

A King may be either more severe or more gentle then the Law. *ib. r.2 n.3. p.408.*

He is *Dominus Legum*, and therefore may intervene between Equity and strictness by Interpretation. *ibid.*

S. Chrysostom proves the office of a Bishop is more difficult then that of a King. *l.3. c.4. r.1. n.7. p.214.*

Difference between a King and Tyrant. *l.3. c.1. r.3. n.5. p.34. & l.3. c.3. r.1. n.1. p.130.*

The power of Kings. *l.3. c.3. r.1. n.3. p.132.*

Though they have an absolute power, they may not use it. *ib. n.4. p.132.*

Their power is absolute in doing right, not in doing wrong; their power of government is absolute, not their power of possession. *ib. n.5. p.133.*

The difference between a King and Lord of the people. *ibid.*

What is *Jus Regium*? *l.3. c.3. r.1. n.7. p.135.*

A consideration upon the power of Kings as it is described by Samuel. *l.3. c.3. r.1. n.7,8. p.135.*

Whether Kings are subject to their own Laws. *l.3. c.3. r.2. n.1. p.138.*

Kings are not under the directive power of Laws. *ibid. n.2. p.138.*

They are not under the fear of their Laws. *ibid. n.5. p.139.*

They are obliged by the Laws of God and nature. *ibid. n.6. p.141.*

A King may not command his Subjects to fight in an unjust cause. *ibid. n.7. p.142.*

Their Laws must not be neglected upon the opinion of every vain person. *ibid. n.8. p.142.*

Some Laws bind the Prince. *ibid. n.10. p.142.*

Whatsoever the King hath sworn to, obliges him. *ibid. n.13. p.143.*

Of the Oath which Kings take. *ibid. n.14. p.144.*

Of the Kingly prerogative. *ibid. n.16. p.145.*

The King can give pardon to a Criminal condemned. *ibid. n.18. p.146.*

Clemency a great vertue in a King. *ibid.*

In what cases a King may pardon a Criminal condemned. *ibid. n.19. p.147.*

It is not lawful in any cases to resist the King. *l.3. c.3. r.3. n.1. p.149. per tot. reg.*

A King, though wicked, must not be resisted. *l.3. c.3. r.3. n.13. p.156.*

A King cannot be supposed to have a desire to destroy his Kingdome. *ibid. n.15. p.157.*

A Christian must not seek revenge upon, nor resist his Father or King. *ibid. n.16. p.158.*

A King must not, because no subject does, forfeit his right in his estate by his vices. *l.3. c.3. r.3. n.17. p.159.*

The King hath no power over his Subjects against Law, so neither the Subject over his King. *ibid.*

Arguments brought to prove the Pope hath power over Kings. *l.3. c.3. r.4. n.4. p.161.*

Kings are Governours of religion. *ibid. n.7. p.163.*

Attalus in making the State of Rome his Heir, together with the Kingly power bequeathed the power over things sacred. *ibid.*

Religion being the great band of societies must be under the government of the King. *l.3. c.3. r.4. n.8. p.164.*

The King without the conduct of religion in many exigencies cannot govern his people. *ibid. n.9. p.165.*

If the Priests rule religion, they may be superiour to the King. *ib. n.10. p.166.*

Examples of Kings and Princes that have been put out of their thrones by a pretended Ecclesiastical power. *ibid. n.11. p.166.*

Ancient Kings would not endure any change in religion. *ibid. n.13. p.167.*

Kings are the vicegerents of Christ. *ibid. n.19. p.170.*

The

The Jewiſh Kings were ſuperiour in power to the Prieſts in matter of religion. *l.3. c.3. r.4. n.20. p.173.*

Chriſt will call Chriſtian Kings to account for Souls. *ibid. n.21. p.173.*

Kings have a Legiſlative power in the matters of religion. *l.3. c.3. r.5. n.1. p.174.*

Kings may compell their Subjects to ſerve God. *ibid. n.3. p.174.*

Thoſe matters are under the power of the King which God hath left under no Commandment, *viz.* Church-affairs. *ibid. n.4. p.174.*

Kinred.

The Canon and Civil Law account not the diſtance of Kinred in the ſame manner. *l.2. c.2. r.3. n.67. p.313.*

thoſe reaſons conſidered which men invent for the reſtraint of thoſe marriages which God reſtrains not. *ibid. n.75. p.315.*

Know.

Every Knowing facultie is the ſeat of Conſcience. *l.1. c.1. r.2. n.4. p.13.*

How little certainty there is in humane diſcourſes. *l.1. c.2. r.6. n.7. p.74.*

L.

Law.

IN what ſenſe the mind of the Lawgiver is to be the meaſure of interpretation. *l.3. c.6. r.1. n.3. p.399.*

by the reaſons and cauſes of the Law we may judge of the intention of the Lawgiver. *ibid.*

the Law is broken when the words are obeyed, if you violate the end or meaning of it. *ibid. n.4. p.400.*

If the intention of the Law be collected but obſcurely, the obſcure words are rather to be followed then the obſcure intention. *ibid. n.5. p.400.*

unleſs it be manifeſt the words recede from the intention, the Subject is to follow the words. *ibid. n.6. p.400.*

Words of Civil and Legal ſignification in Laws muſt not ſignifie according to Grammar, but Law. *l.3. c.6. r.1. n.8. p.401.*

That is the meaning of words in the Law, that does the work of the Law. *ibid. n.11. p.402.*

In all Laws and obligations of Conſcience by contract, when any doubt ariſes, we are to reſt upon that which is moſt likely and moſt uſual. *ibid. n.12. p.404.*

Of the favourable ſenſe of Laws. *ib. n.12,13,14,15,16. p.404,405.*

Of the favourable interpretation of Laws in inflicting puniſhments. *ibid. n.16. p.405.*

When a Lawgiver interprets his Law he does not take off the obligation, but remove it. *l.3. c.6. r.2. n.2. p.408.*

Rules to know when the obligation of Laws ceaſeth upon the change of reaſon. *l.3. c.6. r.3. n.6. p.412.*

How the obligation of a Law may be extended by parity of reaſon. *ibid. n.26. p.420.*

Ratio Legis non eſt Lex. *ibid. n.27. p.420.*

Laws cannot by interpretation be extended to the time paſt. *ibid. n.30. p.422.*

Cum Lex in præteritum quid indulget, in futurum vetat. *ibid.*

It is not ſafe to enquire after the reaſon of a Law, unleſs the Law it ſelf declare it. *l.3. c.6. r.3. n.33. p.422.*

Of the Abrogation of Laws. *ibid. r.7. p.431.*

Difference between Moſes Law and the Goſpel. *l.4. c.1. r.1. n.24. p.450. & l.2. c.2. r.5. p.324.*

when the authority of Lawyers is to be followed. *l.1. c.4. r.10. n.5. p.165.*

The Actions of men living under another Law are not to be meaſured by Laws of a differing government. *l.1. c.5. r.8. n.30. p.202.*

Quod licitum eſt ex ſuperveniente cauſa mutatur. l.2. c.1. r.10. n.5. p.270.

Quod Lege prohibitoria non vetitum eſt, permiſſum eſſe intelligitur. *l.2. c.2. r.3. n.45. p.304.*

Fac Legi tuæ ſepem. *l.2. c.2. r.3. n.68. p.313. & ſupra p.304.*

It is a new Law, though old in the letter, if a new degree of duty be required. *l.2. c.2. r.4. n.4. p.320.*

To forbid evil and command to doe good cannot be one precept. *ibid. n.8. p.321.*

whatſoever is abſolutely is certainly Lawfull. *l.2. c.2. r.7. n.21. p.379.*

Laws that are doubtfull are rightly interpreted by Example. *ibid. n.44. p.387.*

A Lawgiver is not only he who gives Laws, but he that authoritatively expounds them already given. *l.2. c.3. r.1. n.1. p.389.*

whatſoever is equivalent to the inſtance of the Law, is alſo within its obligation. *l.2. c.3. r.3. n.5. p.399.*

whatſoever can certainly and truly be deduced from a Law, does as certainly bind us as the inſtance that is named. *ibid. n.9. p.401.*

The uſefulneſs and original of Laws. *l.3. c.2. r.6. n.1. p.107.*

Chriſtians muſt not go to Law but upon very great cauſe. *ibid. n.18. p.115.*

Neminem Legem ſibi dicere poſſe, à qua, mutata voluntate, nequeat recedere. *l.3. c.3. r.6. n.25. p.192.*

All Laws bind either by the natural goodneſs of the action, or by its ſubſerviencie to ſomething elſe, or only by the authority. *l.3. c.4. r.18. n.6. p.314.*

Laws are either perfect or imperfect. *l.3. c.5. r.8. n.16. p.388.*

The meaning of Laws is to be regarded above their words. *l.3. c.6. r.1. n.1. p.398.*

Counſels Evangelical cannot be made into Laws. *l.3. c.4. r.20. n.12. p.330.*

Laws Divine.

The end and Intention of a Law is under the Commandment, as much as the action commanded in order to the end. *l.4. c.2. r.3. per tot.*

Difference between Moſes Law and the Goſpel. *l.4. c.1. r.1. n.24. p.450. & l.2. c.2. r.5. n.4. p.324.*

When two Laws are oppoſite, that which yields is not moral. *l.2. c.2. r.6. n.76. p.371.*

He does not alwaies keep a good Conſcience who obſerves only the words of the Divine Law, and neglects the reaſons and analogies in like inſtances. *l.1. c.1. r.1. n.20. p.8.*

Some laws of God are ſuch, that they cannot be diſpenſed with. *l.1. c.5. r.8. n.35. p.204.*

Affirmative Laws oblige not when they croſs a Negative. *ibid. p.205.*

The ground and meaſure of diſpenſing with affirmative Laws. *ibid.*

That in the Sanction of the Law of God, the reaſon binds more then the letter. *l.2. c.1. r.9. n.15. p.268.*

Tertullian undertakes to find all the moral Law in the firſt Commandment God gave to Adam. *l.2. c.2. r.4. n.9. p.321.*

Gods method in giving of Laws. *ibid. n.10. p.322.*

In all contracts of Laws the Spiritual ſenſe or action is to be preferred. *l.2. c.3. r.5. n.9. p.409.*

Difference between Laws and Counſels. *l.2. c.3. r.12. n.4. p.450.*

the meaſures and notes of their difference. *ibid. n.10. p.452.*

In laws not only the contrary to the duty, but the privative alſo is a ſin. *ibid. n.12. p.453.*

Whatſoever Law or precept in Scripture relates wholly to a perſon, circumſtance or time, paſſes no obligation beyond the limits of that perſon, circumſtance or time. *ibid. r.17. n.3. p.541.*

Whatſoever Law or Precept was given to many, if another ſucceeded it that is inconſiſtent with it, the former is by the latter declar'd perſonal, temporary and expir'd. *l.2. c.3. r.17. n.4. p.541.*

A Law that is merely temporary may be inſerted without any mark of difference among other Laws that are perpetual and moral. *ibid. n.5. p.541.*

We are free from the curſe of the Law by Chriſt. *l.3. c.1. r.1. n.28. p.18.*

We are freed from the Ceremonial Law by Chriſt. *ibid.*

The Difference of Divine and Humane Laws in their obligation. *l.3. c.1. r.1. n.34. p.23.*

The Laws of God in precepts purely affirmative do not oblige to an actual obedience in danger of death. *l.3. c.1. r.2. n.8. p.27.*

They that teach any thing as a Law of God which is not, are guilty of teaching the Commandments of men for doctrines. *l.3. c.4.r.17. n.13.p.305.*

Laws that are the τετραλογικὰ of duty. *l.3. c.4.r.6. n.4. p.239.*

Laws Humane.

Of Equity in Penal Laws. *l.3.c.6.r.1. n.2. p.399.*

When the words of the Law are ambiguous, unjuſt or abſurd, the mind of the Lawgiver is to be preſumed to be free from all evill or vice. *ibid. n.4. p.399.*

In all Laws and obligations of Conſcience by contract, when any doubt ariſes, we are to reſt upon that which is moſt likely and moſt uſual. *l.3. c.6. r.1. n.12. p.404.*

Of the favourable interpretation of Laws in inflicting puniſhments. *l.3. c.6. r.1. n.16. p.405.*

When a Lawgiver interprets his Law, he does not take off the obligation but remove it. *l.3.c.6. r.2. n.2. p.408.*

A Prince may be either more ſevere or more gentle then the Law. *ibid. n.3.*

The Laws are not to be bended by interpretation, but upon great and juſt cauſes. *l.3. c.6. r.2. n.5. p.409.*

The Interpretation of Laws made by the Judges is nothing of Empire and power. *ibid. n.7. p.410.*

A Law obliges not the Conſcience, when its reaſon wholly ceaſeth, or a contrary reaſon ariſeth. *l.3.c.6. r.3. n.1. p.411.*

Rules to know when the obligation of Laws ceaſeth upon the change of reaſon. *l.3. c.6. r.3. n.6. p.412.*

A Law binds not to an inconvenience greater then is the publick benefit of the Law. *ibid. n.15. p.416.*

In what caſes the Subject is to conſult the Prince about the ceaſing obligation of Laws. *l.3. c.6. r.3. n.19. p.417.*

Of commutation of Laws. *l.3.c.6.r.5. p.426.*

A Law may be interpreted by cuſtomes. *l.3. c.6.r.6. n.3.p.428.*

Judged caſes are a good indication of the meaning of a Law. *ibid.*

Humane Laws bind the Conſcience. *l.3. c.1. r.1.*

Rules by which may be known, what Humane Laws are intended to bind to a greater ſin and what to a leſs. *l.3. c.1. r.1. n.16. p.10.*

Humane Laws bind the Conſcience in things otherwiſe indifferent. *l.3.c.1. r.1. n.13. p.7.*

They bind without the intention of the Lawgiver. *ibid. n.14. p.8.*

But the intention of the Lawgiver is the meaſure of their binding. *ibid. n.15. p.9.*

Laws ſometime made in England profeſſing not to bind the Conſcience. *ibid. n.14. p.9.*

Of the end and intention of Humane Laws. *l.4. c.2. r.3. n.4.*

The abuſe of a Law does not make it to ceaſe. *l.3. c.6. r.7. n.5. p.433.*

No Humane Law is or can be the rule of our obedience. *l.1. c.1. r.1. n.20. p.8.*

Humane Laws make not any action intrinſecally evil. *l.1. c. 3. r. 5. n.6. p.113.*

Of tolerating diſobedience to Laws. *l.2. c.2. r.7. n.12. p.376.*

Humane Laws can exact but the outward action. *l.2. c.3. r.5. n.2. p.405.*

Laws of man do limit and declare and make the inſtances, in which the Laws of God do bind. *l.3. c.1. r.1. n.12. p.7.*

The Laws of men bind the Conſcience even *in materia indifferenti.* *l.3. c.1. r.1. n.13. p.7.*

Humane Laws are neither derived from the Divine poſitive Law nor that of nature. *l.3. c.1. r.1. n.13. p.8.*

The obligation which Humane Laws paſs upon the Conſcience depend not upon the intention of the Lawgiver. *l.3. c.1. r.1. n.14. p.9.*

A Law that profeſſes not to bind the Conſcience is no Law. *ibid.*

Though Humane Laws doe not bind the Conſcience by the intention of the Prince, yet God binds them upon the Conſcience according to his intention. *ibid. n.15.*

The Laws of men bind the Conſcience properly and directly: not indirectly and by conſequence. *ibid. n. 15. p. 10.*

He that breaks a Humane Law eſtabliſhed upon great penalties commits a great ſin. *ibid. n.16. p.19.*

That Rule holds not, where the penaltie ſerves only for terrour. *ibid.*

Humana Lex non magis gravat Conſcientias quam corpora. *ibid.*

How Humane Laws do bind where the matter in it ſelf is great. *l.3. c.1. r.1. n.17. p.11.*

Of Laws in themſelvs ſmall and trifling, but by the conſequence made very conſiderable. *ibid. n.18. p.11.*

When Law expounds an action to be a Sin or ſignifie one, though in it ſelf it doe not, nor in the heart of him that does it, he that does it ſins. *ibid. p.12.*

If the matter of a Law be of ſmall account, and the Legiſlative power ſet a value upon it, it is no argument of the ſmallneſs of the ſin. *ibid. n.18. p.13.*

The preceptive or prohibitive words, what they ſignifie in Humane Laws toward a greater obligation of the Conſcience. *l.3. c.1. r.1. n.20. p.14.*

However Humane Laws are eſtabliſhed, yet Deſuetude may take off the band of Conſcience. *ibid. n.21. p.14.*

The contempt of any Law, be the matter never ſo trifling, is a very great ſin. *ibid. n.22. p.15.*

To teach that Humane Laws bind the Conſcience, intrenches not upon the power of God. *l.3. c.1. r.1. n.25. p.16.*

Humane Laws may lay on us an obligation to obſerve ceremonies notwithſtanding our privilege of Chriſtian Liberty. *ibid. n.28. p. 19.*

The Difference of Divine and Humane Laws in their obligation. *ibid. n.34. p.23.*

Humane Laws bind not the underſtanding. *ibid. n.35. p.23.*

Humane Laws muſt alwayes yield to Divine where they are oppoſed. *ibid. n.42. p.24.*

Humane Laws that are Defenſatives of Divine bind to active obedience too. *l.3. c.1. r.2. n.1. p.26.*

An Humane Law made under the penalty of Death, binds to obediance though Death certainly follow. *ibid. n.12. p.29.*

When a Tyrant power threatens death to make the obedient Subject contemn the Law, the Subject ought rather to die then diſobey the Law. *ib. n.13. p. 29.*

Concerning breaking Laws to ſave ones Life. *ibid. n.13. p.30.*

Laws that oblige to obedience in danger of death muſt be *in materia gravi.* *ibid. n.16. p.31.*

Upon a juſt cauſe a man may without a Crime break a Law, when by ſuch a tranſgreſſion the end of the Law is not hindred. *ibid. n.17. p.31.*

Of Humane Laws that are unjuſt, and how many waies they be ſo. *ibid. r.3. n.1. p.32.*

Humane Laws are unjuſt, if the matter be incompetent and undue. *l.3. c.1. r.3. n.2. p.32.*

Where Humane Laws do oblige with danger of death, they oblige not but to the whole obedience of the Law. *ibid. r.2. n.17. p.31.*

Humane Laws are unjuſt, when a lawfull power in a competent matter goes beyond its bounds. *ibid. r.3. n.4. p.33.*

All Humane Laws preſcribing to the Conſcience or ſetting bounds to the thoughts are null. *ibid.*

Humane Laws are unjuſt when they do not contribute to the publick good, but wholly to his private good that made the Law. *l.3. c.1. r.3. n.5. p.33*

The right end of Humane Laws is the publick good. *ibid.*

A Law that by the change of affairs becomes contrary to the Common good is not to be obſerved. *l.3. c.1. r.3. n.6. p.35.*

An unjuſt Law is not to be diſobeyed with ſcandall of others. *ibid. n.10. p.36.*

Cautions to be obſerved in diſobeying Humane Laws, that are unjuſt. *ibid.*

A civil Law cannot evacuate a naturall. *l.3. c.1. r.4. n.3. p.39.*

Of the promulgation of Humane Laws. *l.3. c.1. r.6. p.45.*

The care of ſufficient promulgation lies upon the Prince. *l.3. c.1. r.6. n.9. p.45.*

Laws have not their binding power by

by the consent of the people.
l.3.c.1.r.7. n.4,5. p.47.
The consent of the people gives no authority to the Law. ibid. n.6. p.48.
Unreasonable Laws in some instances bind by the acceptation of the people.
ibid. n.9. p.49.
In the Substantial matters of religion the Laws bind out of the Dominions, but not in the Ceremonials of religion.
ibid. r.8. n.2. p.50.
A Law does oblige beyond the proper territory if it relate to the good or evill of it. l.3.c.1.r.8. n.5. p.51.
How far strangers are bound by the Laws of the Countrey where they are.
ibid. r.8. n.7. p.51.
A Sentence set down in the Law in words of the Present or Preter tense, shews the sentence is incurred ipso facto.
l.3.c.2.r.1. n.28. p.69.
What sentence those Laws are to have where the punishment is expressed by the verb Substantive.
ibid. n.29. p.69.
When a Law passes a sentence, which will be invalid, unless its punishment be inflicted before the Judge take Cognisance, then the Offender is condemned ipso facto. ibid. n.32. p.71.
Of the distinction of Laws. First, purely penal. Secondly, mixed. Thirdly, purely moral. l.3.c.2.r.4. n.2. p.79.
Kings are not under the Directive power of their own Laws.
l.3.c.3.r.1. n.2. p.138.
The Supreme power is not under the power of the Laws. ibid. n.5. p.139.
The Laws of Kings are not to be disobeyed upon the Phancy of every vain person, pretending they are unjust.
ibid. n.8. p.142.
Some Laws, and what they are, that bind the Prince. ibid. n.10. p.142.
Humane Laws can take off from an action or put upon it the formality of sin. l.3.c.4.r.18. n.2. p.313.

Laws of the Church.

God gave power to the Church by their Laws to bind and loose, as Princes have. l.3.c.1.r.1. n.16. p.11.
A Law that inflicts a Civil and Ecclesiastical punishment too, binds to a great sin. ibid. n.19. p.14.
The Canons of the Pope and Bishops were made into Laws by the Emperour Justinian. l.3.c.3.r.5. n.4. p.175.
Honorius the Emperour made a Law concerning the election of the Pope.
ibid. n.5. p.176.
The Laws of the Church after they are ratified by the Prince, bind him as the Civil Laws of his own making.
l.3.c.4.r.6. n.2. p.238.
A Custome of the Church binds not against a Law of it.
l.3.c.4.r.15. n.6. p.290.
Laws of the Church must not be personal. l.3.c.4.r.17. n.7. p.303.
An Ecclesiastical Law, by which is taught for Doctrines any Commandments of men is void.
l.3.c.4.r.17. n.13. p.305.
Ecclesiastical Laws cannot take off or put upon an action the formality of sin.
l.3.c.4.r.18. n.2. p.313,314.
Laws of the Church must not be made to give offence.
l.3.c.4.r.20. n.9. p.318.
How the Rulers of the Church and the Subject must behave themselves in that case. ibid.
Counsels Evangelical cannot be made into Laws. ibid. n.12. p.330.

Lent.

Of Lent and the weekly Fasting days. l.3.c.4.r.13. n.4. p.273.
Some Fathers affirm the Lent fast is a tradition Apostolical.
ibid. n.5. p.273.
Some others affirm, it is an Institution warranted to us from Christ.
ibid. n.7. p.274.
The Lent fast cannot be concluded from the Example of Christ.
ibid. n.8. p.275.
The Original of the Lent fast much later then the Apostles.
l.3.c.4.r.13. n.10. p.276.
The Ancient use of the Lent fast.
ibid. p.277.
It was unknown in the Church the three first ages. ibid. n.12. p.277.
The Lent fast was in order to Easter, therefore could not be more ancient then it. ibid. n.13. p.279.
In the first ages of the Christian Church, the Fast before Easter lasted but two or three days.
ibid. n.15. p.280.
The word Quadragesima & Τεσσαρακοστη came from the fast of fourty hours held immediately before Easter.
ibid. n.15. p.281.
That word in the Council of Nice does not signifie Lent.
ibid. n.16. p.281.
Lents or Quadragesimal Fasts observed by the Ancients were divers.
l.3.c.4.r.13. n.17,18,19. p.282.
Divers conjectures about the reason of the word Quadragesima.
ibid. n.18. p.282.
In what sense S. Hierom calls Lent an Apostolical Institution.
ibid. n.21. p.283.
Some errours of the Roman Church about imposing the Lent fast.
l.3.c.4.r.17. n.15,16. p.306.
Bellarmine affirms, they are not Christians that eat Flesh in Lent.
ibid. n.17. p.306.
The Primitive Christians did not abhor flesh in Lent.
l.3.c.4.r.17. n.19. p.309.

Liberty.

Libertas omnibus rebus favorabilior.
l.3.c.6.r.1. n.15. p.405.
Christian Liberty, what it is, and wherein it consists.
l.1.c.4.r.4. n.3. p.145. & l.3. p.4,17.
It is not Liberty from sin.
l.3.c.1. n.5. p.4.
By Christian Liberty there is nothing gotten to us before men, but before God there is.
l.3.c.1.r.1. n.28. p.17.
We are free from the curse of the Law by Christ. ibid. p.18.
Wherein consists that Liberty which Christs death hath put us in. ibid.
We are freed from the Ceremonial Law by Christ. ibid.
Christian Liberty at first mistaken.
l.3.c.1.r.1. n.28. p.19. & pag. 4.
Liberty of Conscience how far it should be permitted by the Supreme power. l.3.c.3.r.4. n.15. p.169.
Of Christian Libertie in relation to whole Societies.
l.3.c.4.r.17. n.2. p.302.
Jus trium liberorum, what it was.
l.3.c.1.r.1. n.37. p.23.

Lie.

It is lawfull to tell a harmeless Lie to save the life of a gallant brave man.
l.1.c.5.r.8. n.28. p.401.
The Essence of a Lie does not consist in its difference from the eternal truth. l.3.c.2.r.5. n.4. p.83.
Melanchthon in his definition of a Lie, includes the hurting of ones Neighbour. ibid.
Of the Egyptians deceived by the Jews of their Jewels by a Lie.
ibid. n.7. p.84.
It is lawfull to tell a Lie to children or madmen for their benefit. ibid. n.8.
A Physitian may lawfully tell a ly to some kind of Patients. ibid.
To tell a Lie for charity to save the life of a husband, publick person or Prince, hath been commended by wise and good men.
l.3.c.2.r.5. n.10. p.85.
Of the Lie told by the Egyptian Midwives. ibid.
It is lawfull to doe otherwise then we promised, if the doing be better then the saying. ibid. n.15. p.91.
It is not lawfull to tell a lie to save ones fame. l.3.c.2.r.5. n.16. p.91.
The Romanists give leave to tell a Lie to save ones reputation. ibid. p.92.
That Doctrine proved false.
ibid. n.17. p.92.
Synesius tells a Lie, to refuse a Bishoprick. ibid. n.18. p.93.
In a just war it is lawfull to deceive the Enemy, but not to Lie.
ibid. n.19. p.93.
It is not lawfull to deceive the Enemy when we are in treaty with him.
ibid. p.94.
To use Stratagems is not to Lie.
ibid. p.95.

A Lie that ſerves charity muſt not be againſt Juſtice.
*l.*3. *c.*2. *r.*5. *n.*23. *p.*97.
If a man ſpeak a downright Lie, he can hardly be innocent.
*l.*3. *c.*2. *r.*5. *n.*50. *p.*106.

Of the *Lord Mayor* of London his ſlaying Wat Tiler.
*l.*3. *c.*2. *r.*6. *n.*9. *p.*111.

The uſe of the word *Looſe*.
*l.*3. *c.*4. *r.*10. *n.*10. *p.*264.

Lord.

What is the power of a Lord.
*l.*3. *c.*3. *r.*1. *n.*5. *p.*134.
A King is not Lord over his people. *ibid.*

Lords ſupper.

Of the Inſtitution of the Lords ſupper. *l.*2. *c.*3. *r.*9. *n.*1. *p.*420.
The authority of Juſtin Martyr againſt Communion in one kind. *ibid. n.*7. *p.*422.
The Manichees who abſtained from wine, mixing themſelves among the faithfull, were diſcovered by their refuſing wine in the Sacrament. *ibid. n.*16. *p.*426.
P. Gelaſius condemned thoſe who abſtained from the conſecrated chalice. *ibid. n.*17. *p.*426.
The time when the Chalice was firſt withheld from the Communicants. *ibid. n.*20. *p.*427.
Againſt Communion in one kind. *l.*2. *c.*3. *r.*17. *n.*6. *p.*543. & *r.*7. *p.*544.
The Apoſtles taught the Biſhops and Prieſts to conſecrate the bread and wine, before they did communicate. *l.*3. *c.*4. *r.*12. *n.*2. *p.*269.
That none but the Biſhop or Prieſt could conſecrate, is an Apoſtolical Canon. *ibid. n.*6. *p.*271.

Of keeping the *Lords day*. *l.*3. *c.*4. *r.*17. *n.*24. *p.*311.

Love.

He that Loves God above all other things, loves him for his own ſake. *l.*4. *c.*2. *r.*2. *n.*9.
The meaſures of Love towards God. *l.*2. *c.*3. *r.*12. *n.*1. *p.*449.

M.

A *Mad-man* in his madneſs may be puniſhed for thoſe Crimes he did when he was in health, if to the puniſhment no judicial proceſs be required. *l.*4. *c.*1. *r.*4. *n.*8. *p.*491.

Mandatum & Juſſio how diſtinguiſhed. *l.*4. *c.*1. *r.*2. *n.*7. *p.*458.

Magiſtrate.

The Civill Magiſtrate may puniſh the thoughts of the heart, though they never proceed to action. *l.*3. *c.*1. *r.*5. *n.*6. *p.*42.
The Original of Magiſtracy. *l.*3. *c.*1. *r.*7. *n.*1,2. *p.*46.
It is an ordinance of God. *l.*3. *c.*2. *r.*1. *n.*2. *p.*53.
If the Son be a Magiſtrate, the Magiſtrate is exempted from the Fathers power, but not the Son. *l.*3. *c.*5. *r.*8. *n.*22. *p.*391.

Marriage.

Marriage of Biſhops and Prieſts. *l.*3. *c.*4. *r.*20. *n.*15. *p.*332.
Æneas Sylvius, Panormitan and Caſſander, were againſt it. *ibid. n.*16. *p.*332.
Writers of the Roman Church againſt it. *ibid. p.*333.
It is an intolerable burden. *ibid. n.*17. *p.*333.
The Nicene Council is againſt it. *ibid. p.*334.
The great difficultie ſome holy men found in the obeying that Law. *ibid. n.*17. *p.*335.
Of Marriage. *l.*2. *c.*3. *r.*5. *n.*6. *p.*408.
Contract and Congreſs do effect as well as ſignifie a marriage. *l.*3. *c.*1. *r.*4. *n.*1. *p.*38.
Caſſander affirms, that that Law which injoins ſingle life to Biſhops and Prieſts, ought to have been relaxed, though it had been a Canon Apoſtolical. *l.*3. *c.*4. *r.*11. *n.*4. *p.*267.
To forbear marriage is not a means of preſerving Chaſtity. *l.*3. *c.*4. *r.*20. *n.*17. *p.*336.
Is not in every mans power. *ibid. n.*17. *p.*337.
it does no good at all, is no ſervice of God. *ibid. n.*18. *p.*338.
Virginity is not more holy then chaſt Marriage. *l.*3. *c.*4. *r.*20. *n.*19. *p.*338.
Spiridion a Biſhop was married. *ibid. n.*19. *p.*339.
So was the Biſhop of Nazianzum. *ibid.*
A compariſon between the Married and unmarried life. *ibid. n.*20. *p.*339.
Marriage does not hinder the ſervice of God. *ibid. p.*340.
The Roman Senate forbad their Souldiers to marry. *ibid. p.*341.
Chriſt and his Apoſtles left it free for Prieſts to marry. *ibid. n.*21. *p.*341.
The practice of the ancient Church is for it. *ibid. n.*22. *p.*342.
It was permitted to the Clergy the firſt 400 years. *ibid. n.*23. *p.*342.
The Prieſts in France refuſed to put away their wives at the Legates perſwaſion. *ibid.*
Not forbidden in England till *A. D.* 1100. *ibid.*
When the Church did allow marriage to Prieſts ſhe did forbid it after Ordination. *l.*3. *c.*4. *r.*20. *n.*24. *p.*343.
The Greek and Eaſtern Churches did oblige their Prieſts to ſingle life, if they were ordained in that ſtate. *ibid. n.*26. *p.*344.
They were permitted by the Ancient Church to marry after Ordination. *ibid. n.*27. *p.*344.
The practice of the Latin Church about the Marriage of their Prieſts. *ibid. n.*28. *p.*346.
Gregory Nazianzen had Sons born to him after he was conſecrated Biſhop. *ibid. p.*347.
They annexed a vow of Continence to holy Orders. *ibid. n.*29. *p.*347.
Concerning the ſecond marriages of Prieſts. *l.*3. *c.*4. *r.*20. *n.*29. *p.*348.
The Church of Rome does without ſcruple frequently ordain thoſe that have been twice married if they will pay the mulct. *Ex Spalatenſ.* *ibid. n.*29. *p.*349.
Children may not marry without their Parents conſent. *l.*3. *c.*5. *r.*8. *n.*7. *p.*381.
Iſaac did not marry without his Fathers leave, though God had deſign'd the Marriage. *ibid. n.*8. *p.*382.
Marriages againſt the Parents conſent the Civil and Canon Law pronounce invalid. *ibid. n.*9,10. *p.*383.
The Church did ſometime anathematize thoſe that married without their Parents conſent. *ibid. n.*11. *p.*384.
It is reaſon a Son ſhould be left at liberty in nothing more then in Marriage. *l.*3. *c.*5. *r.*8. *n.*13. *p.*384.
When Sons and Daughters are of competent years and have the uſe of reaſon, they can of themſelves contract marriage. *ibid. n.*14. *p.*385.
The Council of Trent declares all clandeſtine Marriages null. *l.*2. *c.*1. *r.*5. *n.*4. *p.*253.
The Church of Rome does ill to give leave to either of the perſons married to break their vow, and enter into a religious houſe. *ibid. n.*5. *p.*253.
Every *Error Perſonæ* does not annul Marriage. *l.*2. *c.*1. *r.*7. *n.*2. *p.*260.
Of the prohibition of Marriage in certain degrees. *l.*2. *c.*2. *r.*3. *n.*17. *p.*292.
The Perſian Magi were begotten of the Mother and the Son. *ib. n.*23. *p.*295.
Of the Marriage of Mothers in Law and their husbands children. *ibid. n.*29. *p.*299.
God hath not forbid to marry our kinred, but only the neareſt of our fleſh; *Propinquos*, not *Cognatos*. *ibid. n.*38. *p.*303.
Impari Cognationis gradu par & idem jus ſtatuatur, A rule of the Law about Marriages. *ibid. n.*48. *p.*305.
The Marriage of Parents and children forbidden by Chriſt. *ibid. r.*56. *p.*308.
The Marriage of Slaves againſt the conſent of their Lords is valid according to the Civil Law. *l.*3. *c.*5. *r.*8. *n.*14. *p.*386.
The full effect of Marriages made againſt the Parents conſent. *ibid. n.*16. *p.*387.

Three things in Marriage, one of which is in the power of the Contractors, the other of the Domeſtic or Civil Ruler, the third under the power of the Church. *ibid.*

A Betrothed woman is in Scripture ſtiled a wife before Marriage, and her falſhood puniſhed like adultery. *ibid. n.16. p.387.*

The Law makes ſuch marriages as are made without the conſent of Parents civilly null only, not naturally void. *l.3. c.5. r.8. n.16. p.388.*

A Father cannot force his children to marry whom and when he will. *ibid. n.31. p.395.*

Some caſes in which a Father ought not to force his Son to marry. *ibid. n.33, 34. p.396.*

What *Men* may teach to be done. *l.3. c.4. r.17. n.9. p.304.*

The *Manichees* who abſtained from wine, mixing themſelves among the Orthodox, were diſcovered by their refuſing the Chalice in the H. Euchariſt. *l.2. c.3. r.9. n.16. p.426.*

Miniſters.

Of the maintenance of Miniſters under the Goſpel. *l.2. c.3. r.3. n.4. p.398.*

Of their wearing Surplices. *l.3. c.4. r.15. n.8. p.191.*

It is lawfull to enter into the Miniſtry with actual deſign to make that calling the means of our neceſſary ſupport, with reaſons proving it. *l.1. c.2. r.5. n.7. p.65.*

but the principal end muſt be the glory of God, with reaſons. *ibid. n.11. p.66.*

It is not lawfull to forſake the Miniſtry without Gods permiſſion, becauſe it is not lawfull to enter into it without the Divine vocation. *l.1. c.2. r.5. n.21. p.68.*

Mind.

The Mind furniſhed with a holy rule and guided by it, is Conſcience. *l.1. c.1. r.1. n.8.*

Diſtraction of mind the effect of a guilty and troubled Conſcience, *l.1. c.1. r.2. n.13. p.19.*

Of Contracts made with *Minors*. *l.2. c.1. r.5. n.3. p.252. & l.3. c.1. r.4. n.2,3. p.39.*

Of the *Miracles* which Chriſt did. *l.1. c.4. r.2. n.14. p.128.*

Cuſtome cannot abrogate a Law under a *Monarchie*. *l.3. c.6. r.6. n.6. p.430.*

Money.

Majori ſummæ negative prolatæ, minorem nec naturaliter nec civiliter ineſſe. *l.3. c.2. r.5. n.14. p.90.*

In ſummis ambiguis, ſemper quod minus eſt promiſſi videtur. *l.3. c.6. r.1. n.13. p.404.*

Mauritius the Emperour made a Law that no Souldier ſhould turn *Monk* without his leave, and forced the Pope to own it. *l.3. c.3. r.5. n.7. p.176.*

Moſes, Moſaical.

The great ſanction of the Law of Moſes was fear of puniſhment, for it conſiſted almoſt all of Negatives. *l.2. c.3. r.1. n.4. p.390.*

Evangelical duties expreſſed in words borrowed from Moſaical rites, determined with the rites to which they are annexed. *l.2. c.3. r.15. n.2, 3, 4. p.519, 520.*

Reaſons ſhewing that the Law of Moſes required the Introduction of a better Law. *l.2. c.1. r.1. n.1, 2. p.277.*

In what ſenſe the Law of Moſes was an everlaſting Covenant. *ibid. n.11. p.279.*

Reaſons proving the actual abrogation of Moſes Law. *ibid. n.13. p.280.*

What part of Moſes Law was annulled by Chriſt. *l.2. c.2. r.2. n.1. p.280.*

The Law of Moſes was a collection of the beſt of thoſe Laws by which the world was governed before his time. *l.2. c.2. r.3. n.36. p.302.*

The Law of Moſes obliged not the Heathen. *ibid.*

The Law of Moſes was made, ſay the Jews, two thouſand years before the Creation. *ib. r.4. n.1. p.318.*

Moral.

When two Laws are oppoſite, that which yields is not Moral. *l.2. c.2. r.6. n.76. p.371.*

Whatſoever duty in Scripture is commanded to all mankind, is either Moral in its nature or by adoption. *ibid. n.77. p.372.*

A Moral Demonſtration, what it is. *l.1. c.4. r.2. n.5. p.123.*

The advantages of Moral Demonſtration above cloſe arguing in ſome Queſtions. *l.1. c.4. r.2. n.8. p.124.*

What is required in a Moral Demonſtration to aſſure our Conſcience. *ibid. n.34. p.141.*

When an action is forbidden only for a reaſon that is tranſient, and that hath in it no eſſential, natural rectitude, that prohibition is not moral or natural, but for a time or poſitive. *l.2. c.2. r.6. n.23. p.338.*

What was for temporary reaſons eſtabliſhed, is not Moral, cannot paſs an eternal obligation. *ibid. n.44. p.356.*

How to diſcern between precepts Moral and not Moral in the Laws of God. *ibid. n.65. p.367.*

A precept is not Moral if no reaſon can be given of it. *ibid. n.66. p.368.*

The Conſequents of natural reaſon are no indication of a Moral Commandment. *ibid. n.67. p.368.*

A Law that invades the right of nature is not alwaies the breach of a Moral Commandment. *ibid. n.68. p.369.*

Every conſonancy to natural reaſon is not the ſufficient proof of a Moral precept. *ibid. n.69.*

When God gives a Law and adds a reaſon, though the reaſon be it ſelf eternal, it is not alwaies the indication of a Moral Law. *ibid. n.70. p.370.*

When God in the old Teſtament did threaten the Heathen or puniſh them for any fact, we cannot conclude it was againſt the Moral Law. *l.2. c.2. r.6. n.71. p.370.*

All the inſtances of a Moral precept are not Moral, as the Chief duty. *ibid. n.72. p.370.*

The ſtrong and violent perſwaſion of any ſingle perſon of or in ſome Communities of men does not ſufficiently prove a precept is Moral. *ibid. n.73. p.370.*

The conſonant practices of the Heathen is not alwaies an argument of a Moral duty. *ibid. n.74. p.371.*

The annexed penaltie of death impoſed by God does not prove the Law to be Moral. *ibid. n.75. p.371.*

The power of *Mothers* over their children. *l.3. c.5. r.8. n.28. p.393.*

Of crimes committed by a *Multitude*, how ſubject they are to puniſhment. *l.3. c.2. r.7. n.13,14. p.123.*

Murther.

Of thoſe that aſſiſt at Murthers either by counſel or company. *l.4. c.1. r.2. n.23. p.467.*

Of *Muſick* in the Church. *l.3. c.4. r.20. n.11. p.329.*

N.

OF changing and diſguiſing *Names*. *l.3. c.2. r.5. n.41. p.103.*

Nations.

Of the conſent of Nations. *l.2. c.1. r.1. n.15. p.225.*

Of the univerſal cuſtoms of Nations. *ibid. n.15, 16, 17. p.226.*

The divers cuſtoms of Nations. *ibid. n.22. p.228.*

The Law of Nations cannot be the meaſure of war. *l.2. c.2. r.7. n.19. p.378.*

Of what uſe the agreement or conſens of Nations can be to prove a propoſition. *l.2. c.3. r.19. n.15. p.554.*

Nature.

Law of Nature, why the Chriſtian Law commands ſome things contrary to it. *l.1. c.2. r.3. n.31. p.50.*

The difference between *Jus naturæ* and *Lex naturæ*.
l.2. c.1. r.1. n.2. p.221.
Aristotle's opinion of the Law of Nature: he was not constant to himself in it. *ibid. n. 3. p.221.*
The Law of Nature is not the Law of all the world absolutely. *ibid. n.4. p.222.*
Nature makes no Laws but only prepares them. *ibid. n.8. p.223.*
It is no indication of a Law of Nature, that a thing is common to men and beasts. *ibid. n.10. p.224.*
It is not possible to collect the Laws of Nature out of the customs of Nations. *ibid. n.21, 22. p.228.*
How the precepts of the Law of Nature were made Laws and promulgated. *ibid. n.40. p.235.*
There is no other System of the particular Laws of Nature, but the Moral Law and Gospel. *ibid. n.42. p.236.*
The Laws of Nature variously enumerated by divers. *ibid. n.46. p.237.*
All the instances of the Law of Nature are not so lasting and unalterable as the prime precepts are. *ibid. n.48. p.238.*
It was ill said, that God cannot change the Law of Nature. *ibid. n.49. p.239.*
The Law of Nature cannot be abrogated, but it may be derogated. *l.2. c.1. r.1. n.53. p.241.*
Every proposition pretended to be of the Natural Law, is not a Law, but a rule. *ibid. n.54. p.241.*
Some instances of the Law of Nature have been changed. *ibid. n.55.*
When any thing of the Law of Nature is twisted with the Right of Nature, the civil constitution cannot disannul it. *ibid. r.5. n.13. p.255.*
Of the greatness of Sins against Nature. *l.2. c.1. r.6. n.1. p.258.*
If any Prophet or Angel from Heaven shall teach any thing contrary to a Natural Law, he is not to be heard. *l.2. c.1. r.9. n.16. p.269.*
Whatsoever is forbidden by the Law of Nature cannot be permitted by the Civil. *l.2. c.1. r.10. n.3. p.270.*
Whatsoever is commanded by the Law of Nature cannot be forbidden by the Civil. *ibid. n.4.*
Wherein the Civil Law can change the Natural Law. *ibid. n.7. p.271.*
The Pope hath no power to dispense with the Law of Nature. *ibid. n.9. p.272.*
To live according to Nature hath two meanings. *l.2. c.2. r.4. n.10. p.322.*
A Law that invades the right of Nature is not always the breach of a Moral Commandment. *l.2. c.2. r.6. n.68. p.369.*
The Consequents of Natural Reason are no indications of a moral Commandment. *ibid. n.67. p.368.*
Every consonancy to Natural Reason is not sufficient proof of a Moral Law. *ibid. n.69. p.369.*
The Law of Nature cannot have the conduct of War. *l.2. c.2. r.7. n.16. p.377.*
The propositions we can learn from the dictates of Nature are but a few. *l.2. c.3. r.19. n.15. p.554.*
A Civil Law cannot evacuate a Natural. *l.3. c.1. r.4. n.3. p.39.*
In Laws declarative of Natural right, the obligation extends to all things of equal reason, though they be not mentioned in the Law. *l.3. c.6. r.3. n.24. p.419.*

Necessary.

Whatsoever is absolutely necessary, is certainly lawfull. *l.2. c.2. r.7. n.21. p.379.*
That which is necessary to be done, is not against any mans duty. *l.3. c.2. r.2. n.10. p.56.*
Several degrees of necessity. *l.3. c.4. r.4. n.17. p.231.*
In our enquiry after things necessary, we must not rest till our work be done. *l 4. c.1. r.5. n.8. p.496.*

Negative.

Why all Commandments but one are negative. *l.2. c.3. r.1. n.3. p.389.*
ad negationem non semper sequitur affirmatio oppositi. ibid. n.9. p.392.
affirmative duties follow from the negative not in contraries but contradictories. *ibid.*
From a negative duty an affirmative is not always inferred in a particular instance. *ibid. n.11. p.392.*
negative precepts oblige *semper & ad semper*, affirmative *semper*, but not *ad semper*. *n.13. p.393, & 522. n.2.*
of the concluding negative precepts from affirmative, and *è contra*. *l.2. c.3. r.1. per tot.*
a negative precept cannot be lessened by an affirmative. *l.2. c.3. r.2. n.2. p.395.*
negative precepts have no degrees of obedience, but consist in a Mathematical point. *l.2. c.3. r.11. n.27. p.447.*
what is the force of negative arguments from Scripture. *l.2. c.3. r.14. n.45. & seq. p.501.*
A mere negative does nothing in Gods service. *l.4. c.1. r.1. n.15. p.444.*
Of negative Commandments. *l.4. c.1. r.7. n.3. p.512.*
Of the morality of negative actions. *l.4. c.1. r.1. n.15, 16. p.445.*

Dissoluta Negligentia *propè dolum est. l.3. c.1. r.1. n.40. p.14.*

Of the marriage of *Nieces* and Uncles. *l.2. c.2. r.3. n.30. p.299.*

Nimm. l.1. c.2. r.3. n.20. p.46.

Nullities do not commence from the sentence of the Judge, but from the existence of the action. *l.3. c.2. r.2. n.22. p.67.*

Nummus and *Numisma* the Etymon of them. *l.3. c.2. r.8. n.2. p.124.*

Nuptiæ *nefariæ, incestæ & damnatæ. l.2. c.2. r.3. n.24. p.296.*

O.

Orders, Ordination.

Whether they that enter into H. Orders ought principally to design the glory of God, so that if they doe not, it is unlawfull to doe it. *l.1. c.2. r.5. n.5. p.65.*
Who does actually enter into H. Orders must take care that his principal end be the work of God. *ib. n.11. p.66.*
Rules concerning the intention of those that enter into H. Orders. *ib. n.17. p.67.*
Priests were forbid to marry after Ordination. *l.3. c.4. r.10. n.24. p.343.*
By the ancient Church they were permitted to marry after Ordination. *ibid. n.27. p.344.*
The Greek Priests, after the Synod in Trullo, had allowed them two years probation after their Ordination, to try whether they could abstain from marriage or no. *ibid. n.27. p.345.*
Gregory Nazianzen used marriage after he was consecrated Bishop. *ibid. n.28. p.347.*
A vow of continence was not annexed to H. Orders. *l.3. c.4. r.10. n.29. p.347.*
The Church of Rome does frequently without scruple ordain those that have been twice married, if they will pay the mulct. *ex Spalatens. ibid. p.349.*
To enter into H. Orders quits not the Son from his duty to his Father. *l.3. c.5. r.8. n.23. p.391.*

How far *Obedience* to our Superiours can lessen a crime. *l.4. c.1. r.2. n.7. p.459.*
Obedience is due to them to whom tribute is due. *l.3. c.2. r.8. n.1. p.124.*

One is more then all the numbers in the world. *l.2. c.2. r.7. n.1. p.371.*

Sins of *Omission* are less then Sins of Commission. *l.2. c.3. r.1. n.12. p.393.*

Old age unfit for repentance. *l.2. c.3. r.16. n.23. p.530.*

Oaths. Of those a King takes at his Coronation. *l.3. c.3. r.2. n.14. p.144.*
of Oaths taken in the Universities. *l.3. c.4. r.15. n.6. p.290.*
he that is bound by an Oath imposed must interpret the Obligation according to the intention of the Imposer. *l.3. c.4. r.28. n.7. p.358.*
concerning the Oath taken in the Universities, not to teach Logick any where but there. *l.3. c.6. r.3. n.8. p.413.*

what

what knowledg is neceſſary to the taking an Oath. *l.4. c.1. r.5. n.15. p.498.*

The Homilies on Leviticus under the name of *Origen*, are not his, nor of any authority. *l.3. c.4. r.13. n.12. p.278.*

Semper in Obſcuris, *quod minimum eſt ſequimur. l.3. c.6. r.1. n.12. p.404.*

In thoſe places where it is a cuſtom to pay *Oblations* at the baptizing of a child, the Miniſter is Simoniacal if he refuſe to baptize the child till he be ſecured of his money. *l.3. c.4. r.15. n.10. p.293.*

Of extending the *Obligation* of Laws. *l.3. c.6. r.3. n.24,25,26,27. pag. 420.*

Non poſſe præſcribi contra Obedientiam. *l.3. c.6. r.6. n.4. p.429.*

what influence *Oblivion* can have upon the morality of actions. *l.4. c.1. r.6. n.20. p.509.*

P.

Παεάδοσις. *l.2. c.3. r.14. n.16. p.484.*

Πάσχα. Socrates by it does not mean Eaſter, but Good-friday. *l.3. c.4. r.13. n.13. p.279.*

Peace.

Peace of Conſcience, the ſigns of it. *l.1. c.1. r.2. n.25. p.24.*

That Peace of Conſcience cannot be true, which wicked men have. *ibid.*

True Peace of Conſcience relies not upon the opinions of men. *ibid. n.25. p.25.*

Religion is a good inſtrument of Political happineſs and Peace. *l.3. c.3. r.4. n.8. p.164,165.*

An expedient for the attaining Peace of Conſcience in Scruples concerning the controverted articles and diſputes of Chriſtendome. *l.4. c.1. n.10. p.443.*

Parents.

Children ought to obey their Parents. *l.3. c.5. r.1. n.1. p.359.*

Reaſons to prove it neceſſary. *ibid. n.1,2,3. p.359.*

It is a kind of Atheiſme to diſobey Parents. *ibid.*

Children muſt honour and reverence their Parents. *l.3. c.5. r.1. n.6. p.362.*

S. *Pelagia* after her converſion lived in mans habit to her death, to avoid temptation. *l.3. c.1. r.1. n.18. p.12.*

The Church remembers her on October 8. *ibid. p.13.*

Penal, Penalties, Puniſhment.

concerning doing good out of fear of puniſhment. *l.2. c.1. r.3. n.3. p.245.*

Penal Laws are not caſſated by the precepts of charity and forgiveneſs. *l.3. c.2. r.1. n.3. p.54.*

A man may inflict puniſhment on himſelf. *l.2. c.3. r.2. n.9. p.61.*

He that breaks a Humane Law eſtabliſhed on great Penalties commits a great Sin. *l.3. c.1. r.1. n.16. p.10.*

That rule holds not where the puniſhment ſerves only for terrour. *ibid.*

In Puniſhments Corporal, the Law does not proceed without the ſentence of the Judge. *l.3. c.2. r.2. n.17. p.64.*

When Puniſhments are principally medicinal the Conſcience is bound to a voluntary execution of the Sentence. *ibid. n.19. p.66.*

In Pœnis *benignior interpretatio eſt faciendæ. ibid. n.31. p.71.*

Penal ſentences expreſſed in words that ſignifie the time paſt or indefinite are to be expounded in the moſt favourable ſenſe to the offender, that is, oblige not to Puniſhment before the ſentence. *ibid.*

Puniſhment does not ſatisfie the Law. *ibid. r.4. n.3. p.80.*

Omnis Pœna *ſi juſta eſt, peccati* Pœna *eſt.* S. Auguſt. *ibid. n.5. p.80.*

the uſe of the word *Pœna*. *ibid. n.7. p.81.*

Two caſes wherein Laws oblige to puniſhment but not to guilt. *ibid. n.7,8. p.81.*

It is not lawful to ſollicit the Magiſtrate to Puniſh the Malefactor out of a love of revenge. *l.3. c.2. r.6. n.15. p.114.*

but it is lawful to doe ſo to prevent a future intolerable evil. *l.3. c.2. r.6. n.16. p.114.*

of Puniſhing one for the offence of another. *l.3. c.2. r.7. n.1. p.117.*

Nemo fiat deterior per quem melior factus non eſt. ibid. n.11. p.121.

Nunquam unus pro altero Pœna corporis puniri poteſt. ibid.

Penances cannot be impoſed upon the King without his conſent. *l.3. c.4. r.7. n.12. p.244.*

of the favourable interpretation of Laws in inflicting puniſhments. *l.3. c.6. r.1. n.16. p.405.*

Penal Laws bind not by the extenſion of their reaſon. *l.3. c.6. r.3. n.25. p.419.*

In Pœnis non arguimus ad ſimilia. ib.

how far the actions of mad-men are puniſhable. *l.4. c.1. r.4. n.5,6. p.491.*

People.

The Supreme Legiſlative power is not the ſervant of the people. *l.3. c.1. r.1. n.11. p.6.*

The conſent of the people gives no authority to the Law. *l.3. c.1. r.7. n.8. p.48.*

The Maſters of Politicks whom we now follow framed their Principles according to the popular governments they then lived under. *l.3. c.1. r.7. n.5. p.47.*

The refuſal of the greater part of the people takes not off the obligation of a Law. *ibid. n.9. p.49.*

Neither the people nor King are to be excommunicated. *l.3. c.4. r.8. n.7. p.250.*

Caret Peccato, *quod ex duobus minus eſt. l.3. c.2. r.5. n.13. p.88.*

The *Perſian* feaſt called *vitiorum interitus. l.2. c.3. r.16. n.13. p.525.*

Whatſoever concerns a moral duty, and was delivered to a ſingle perſon, obliges all. *l.2. c.3. r.17. n.6. p.542.*

Pepin King of France.

The caſe of Pepin taking the Crown of France by force from Chilperic, *A. D.* 750. *l.3. c.3. r.4. n.4, 5. p.162.*

the Judgment of God upon his poſterity. *ibid. n.5.*

Notorius Percuſſor *Clerici*, is *ipſo jure* excommunicate. *l.3. c.2. r.2. n.21. p.66.*

Miſtaken *Philoſophy* ought not to be urged as reaſon, in examining myſteries. *l.1. c.2. r.3. n.51. p.57.*

the heart religion hath received by it. *l.1. c.2. r.3. n.7. p.42.*

Πίστις. *l.1. c.2. r.3. n.20. p.46.*

Polygamy unlawfull. *l.2. c.3. r.3. n.7. p.400.*

Pope.

The Pope hath not power to diſpenſe with the Law of Nature. *l.2. c.1. r.10. n.9. p.272.*

concerning the Popes power of diſpenſing with the poſitive Laws of Jeſus Chriſt. *l.2. c.3. r.11. n.6,7. p.442.*

that the Epiſtles of the Popes were very many of them falſe. *l.2. c.3. r.14. n.34. p.491.*

The Schoolmen of the Roman party affirm that he hath power to enlarge the Creed, by inſerting new articles. *l.2. c.3. r.14. n.79. p.519.*

The arguments that uſually are brought to prove the Pope hath power over Kings. *l.3. c.3. r.4. n.4. p.161.*

the Canons of the Pope and Biſhops received the authority of Laws from the Emperour. *l.3. c.3. r.5. n.4. p.175.*

Honorius the Emperour made a Law concerning the election of the Pope. *ibid. n.5. p.176.*

Pope Gregory the Great ſubmitted to Mauritius the Emperour. *ibid. n.7. p.176.*

Spiritual perſons have no temporal power. *ibid. r.6. n.19. p.188.*

The Pope diſobeyed in France and Germany. *l.3. c.4. r.10. n.23. p.342.*

The Pope did not well to diſpenſe with the Ciſtertians for paying tythes. *l.3. c.6. r.4. n.6. p.425.*

Politie, Political.

The Maſters of Politicks whom we now follow, becauſe they lived under popular Governments, ſquared their principles to ſuch governments.
l.3. c.1. r.7. n.5. p.47.

Religion is a great inſtrument of Political happineſs.
l.3. c.3. r.4. n.8. p.164, 165.

Supreme *Power, Prince.*

Princes muſt not lie for the intereſts of Government.
l.3. c.2. r.5. n.22. p.96.

In all Governments there muſt be a ſupreme Power. *l.3. c.3. r.1. n.1. p.130.*

Whether a Prince may put to death a guilty perſon privately by poiſon or ſtrangling, *&c. l.3. c.2. r.6. n.11. p.111.*

The ſupreme Legiſlative Power is not the Servant of the people.
l.3. c.1. r.1. n.11. p.6.

There is in all States ſometime a neceſſity of ſetting up a ſupreme, *abſoluta Poteſtas. l.3. c.3. r.1. n.2. p.131.*

The ſupreme Power is much leſs then a Lordſhip over the Subjects.
l.3. c.3. r.1. n.5. p.134.

It muſt uſurp no mans right. *ib. n.6.*

It is from God.
l.3. c.3. r.3. n.1. p.149.

The ſupreme Power is defective without the government of religion.
l.3. c.3. r.4. n.8. p.164, 165.

The inconvenience of ſetting up two ſupreme Powers, one temporal, the other ſpiritual. *l.3. c.3. r.7. n.2, 3. p.200.*

They that rule religion may make themſelves ſuperiour to the ſupreme Power. *l.3. c.3. r.4. n.10. p.166.*

Anciently the Prieſthood was in the ſame hands as the ſupreme Power.
l.3. c.3. r.4. n.16. p.169.

The unlawfull Proclamations of a true Prince may be publiſhed by the Clergy in their ſeveral charges.
l.3. c.4. r.7. n.10. p.243.

The ſupreme Power cannot forbid an action that is under a divine Commandment. *l.3. c.4. r.10. n.6. p.262.*

The ſupreme ſecular Power ought to determine what doctrines ſhall be taught the people. *l.3. c.3. r.7. n.13. p.205.*

Power.

Eccleſiaſtical Power differs much from the Civil. *l.3. c.3. r.4. n.19. p.171.*

The Power of the Keys. *vide K.*

Spiritual perſons have no temporal Power. *l.3. c.3. r.6. n.19. p.188.*

That which hath a direct Power is to be obeyed before that which hath an indirect Power. *ibid. n.27. p.193.*

Prieſt.

A Prieſt may not refuſe to communicate him whom he knows to be unworthily abſolved. *l.1. c.2. r.8. n.7. p.83.*

A Prieſt, if by hearing the Confeſſion of a Criminal he learn the guilt of another Criminal, may not upon the account of this private information deny abſolution to this latter Criminal.
l.1. c.2. r.8. n.10. p.83.

The Prieſts if they rule religion may make themſelves ſuperiour to the ſupreme power. *l.3. c.3. r.4. n.10. p.166.*

The Prieſthood and Supreme power were anciently veſted in the ſame perſon.
l.3. c.3. r.4. n.16. p.169.

Prieſts were forbid to marry after Ordination. *l.3. c.4. r.20. n.24. p.343.*

Of the Marriage of Prieſts.
See more M. *voce* Marriage.

The Greek and Eaſtern Churches did oblige their Prieſts to ſingle life, if they were ordained in that eſtate.
ibid. n.26. p.344.

Prieſts were permitted by the ancient Church to marry after ordination.
ibid. n.27. p.344.

The practice of the Latine Church about the marriage of their Prieſts.
l.3. c.4. r.20. n.28. p.346.

The Greek Prieſts had two years probation allowed to them after their ordination, to try whether they could forbear marriage. *ibid. n.29. p.345.*

concerning the ſecond marriage of Prieſts. *ibid. n.29. p.348.*

Tiberius was leſs obſervant of religion, becauſe his opinion favoured much of *Predeſtination.*
l.3. c.3. r.4. n.10. p.166.

To *Praiſe* an evil action, how far ſinfull. *l.4. c.1. r.2. n.9. p.460.*

Almoſt every word of the Lords *Prayer* was taken from the writings of Pious men of the Jewiſh nation.
l.2. c.3. r.15. n.1. p.519.

Private.

A Private evil is not to be done for a Private Good, but for a publick it may.
l.1. c.5. r.8. n.31. p.203.

Private perſons may not be executioners of the ſentence of death.
l.3. c.2. r.6. n.3. p.107.

but it was permitted in ſome caſes by the Law of Moſes. *ibid.*

In deſert places, where no Law is in force but that of Nature, a private perſon may be Judge and Executioner too.
l.3. c.2. r.6. n.4. p.108.

They may where the Law has paſſed ſentence and given leave.
ibid. n.8. p.109.

Private perſons that kill Offenders, though they are quitted by the Law, are not quitted in Conſcience.
ibid. n.9. p.110.

the meaſures of publick Intereſt are not to be eſteemed by Private meaſures.
l.1. c.5. r.8. n.31. p.203.

Promiſe.

A threatning, in all Laws, leaves a greater obligation then a Promiſe.
l.2. c.3. r.2. n.2. p.396.

The Rules of Extention or diminution of Promiſes are the ſame as of Laws.
l.3. c.6. r.3. n.32. p.422.

Precept.

The poſitive Precepts of Chriſt, in reſpect of the inward duty, bind all perſons in all time even to preſent action.
l.2. c.3. r.16. n.3. p.522.

Particular Precepts of Chriſt bind, if they are affirmative and in ſpecial times and certain occaſions.
ibid. n.5. p.522.

Univerſal affirmative precepts bind in all times and on all occaſions.
ibid. n.6. p.523.

Whatſoever precept concerns every one by the nature of the thing, though delivered to a few perſons, concerns all.
l.2. c.3. r.17. n.6. p.543.

When the Univerſal Church does ſuppoſe her ſelf bound by any preceptive words, though they were directed to particular perſons, yet they are to be underſtood of univerſal concernment.
l.2. c.3. r.17. n.7. p.544.

When a precept is addreſſed to a particular perſon, and yet hath a more full and better meaning if extended to the whole Church, then its obligation is upon all.
ibid. n.8. p.544.

When any precept is perſonally addreſſed, & yet is enforced with the threatning of eternal death, it is of univerſal concernment. *ibid. n.9. p.545.*

Whatſoever precept concerns a moral duty, though delivered to a ſingle perſon, obliges all. *ibid. n.6. p.542.*

Preſumption.

There are two kinds, firſt, of Juſtice; ſecond, of Caution.
l.3. c.1. r.4. n.2. p.38.

An Humane Law founded upon a falſe preſumption obliges not the conſcience. *l.3. c.1. r.4. p.37.*

but not ſo if it be a preſumption of caution. *ibid. n.2. p.38.*

Laws, firſt, of favour relying upon a falſe preſumption oblige not the Conſcience; but Laws, ſecondly, of duty doe.
l.3. c.1. r.4. n.4. p.39.

Promulgation.

Of promulgation of Laws.
l.3. c.1. r.6. p.45.

A Contract made before the promulgation of a Law, but not performed till after, binds not.
l.3. c.1. r.6. n.6. p.45.

Prudentia diſtinguiſhed from *Conſcientia. l.1. c.1. r.1. n.26. p.10.*

Prejudice or *Paſſion, Phancy* and affection, error and illuſion, are ſometime miſtaken for Conſcience.
l.1. c.1. r.3. n.1. p.27.

How to know when one of theſe uſurps the office of Conſcience.
l.1. c.1. r.3. n.3. p.27.

Concerning the authority of a *Probable* Doctor. *l.1. c.4. r.5. n.12. p.149.*

Pupill.

If a Pupill in his minority make a contract with an adult to his own ruine, it is void.
l.2. c.1. r.5. n.17. p.256.
if to his advantage it is valid.
ibid. n.18. p. ead.
It is as great a ſin to teach for neceſſary doctrines the prohibitions of men, as their injunctions.
l.2. c.3. r.13. n.20. p.463.
No man can preſcribe to truth.
l.2. c.3. r.19. n.1. p.549.

Preaching.

There is an Empire in Preaching.
l.3. c.4. r.1. n.12. p.217.
The ſupreme ſecular power ought to determine what doctrines ſhall be taught the people, and what not.
l.3. c.3. r.7. n.13. p.205.

Priſon.

One may eſcape from priſon, if he can, though he ſtand condemned to die.
l.3. c.2. r.3. n.23. p.72.
A guilty priſoner may not ſay, Not guilty, when he is juſtly interrogated.
l.3. c.2. r.5. n.14. p.89.

The caſe of the Kingdom of *Portugal*, deſiring the conſecration of Biſhops from Rome. *l.3. c.3. r.6. n.28. p.195.*

what is the *Principal*, and what the Acceſſory. *l.3. c.4. r.4. n.6. p.227.*

Privileges or Conceſſions made to the Church by the King, may by him be recalled. *ibid. r.6. n.3. p.238.*

Of the uſe of ſinging *Pſalms* in the Church. *l.3. c.4. r.20. n.11. p.329.*

All deſigns of *Profit* or *Pleaſure* muſt be ſubordinate to religion. *l.4. c.2. r.2. n.4.*

C.

Quadrageſima or τεσσαρακοστη in the Council of Nice ſignifies not Lent. *l.3. c.4. r.13. n.17. p.281.*
whence that word is taken.
ibid. n.16. p.281.
Quadrageſima or τεσσαρακοστη uſed to ſignifie Faſts longer or ſhorter then 40 daies. *ibid. n.17. p.282.*
Divers conjectures about the reaſon of the word *Quadrageſima*.
ibid. n.18. p.282.

R.

Ratihabition.

How Ratihabition contracts guilt.
l.4. c.1. r.2. n.3. p.456.
Ratihabition does not render guilty *in Foro humano*.
l. 4. c.1. r.2. n. 4. p.457.

Reaſon.

A weak reaſon is to be preferred before a long prevailing cuſtome.
l.2. c.3. r.19. n.3. p.549.
Of what uſe it may be in religion.
l.1. c.2. r.3. n.8. p.42.
It is denied in religion by Papiſts and Enthuſiaſts. *ibid. n.17,18. p.45.*
Faith and it are not oppoſite.
ibid. n.20. p.46.
We embrace all religion by reaſon.
ibid. n.24. p.47.
Faith is an act of Reaſon. *ibid.*
Right reaſon is not the affirmative meaſure of things divine.
l.1. c.2. r.3. n.27. p.48. & n.31. p.50.
The reaſon of man is a right Judge if it be rightly informed.
ibid. n.30. p.50.
Right reaſon is not the ſame in all conſtitutions of affairs. *ibid.*
Right reaſon is the negative meaſure of every article of Faith.
ibid. n. 33. p.51.
What things reaſon can diſcern to be certainly true or falſe.
l.1. c.2. r.3. n.47. p.55.
Our reaſon cannot diſcover the effects of all the power of God, but when they are revealed can conſent to them. *ibid.*
What is impoſſible or abſurd to reaſon cannot be an article of Faith.
ibid. n.48. p.55.
Miſtaken Philoſophy ought not to be urged for reaſon in queſtions of Religion. *ibid. n.51. p.57.*
How reaſon and Faith ſerve one the other. *ibid. n.52. p.57.*
It is a lawfull argument to prove a thing is againſt the word of God, becauſe it is againſt reaſon.
ibid. n.54. p.58.
Though natural reaſon cannot teach us the things of God, yet Reaſon illuminated can. *ibid. n.56. p.59.*
It is ratiocination that is fallible, not reaſon. *ibid. n.64. p.61.*
In what manner reaſon is the meaſure of religion. *ibid. n.66. p.61.*
Reaſon is not the ſame alwaies.
l.1. c.2. r.6. n.7. p.75.
Infallible reaſons are not to be required in moral actions to guide our ſelves by. *l.1. c.4. r.1. n.1. p.120.*
The ſame reaſon will not ſerve all ſtates of men. *l.1. c.4. r.2. n.34. p.142.*
Rules of prudence are not to be urged againſt reaſon and ſtrict diſcourſes.
ibid. n.40. p.143.
Reaſon is not a meet indication of the Laws of nature.
l.2. c.1. r.1. n.30. p.230. & l.2. c.3. r.13. n.28. p.467.
The uncertainty of reaſon.
l.2. c.1. r.1. n.31. p.231.
The Conſequents of natural reaſon are no indication of a moral Commandment. *l.2. c.2. r.6. n.67. p.368.*
Right reaſon cannot be the rule of war. *l.2. c.2. r.7. n.18. p.377.*
Ratio Legis non eſt Lex, ſed quod ratione conſtituitur.
l.3. c.6. r.3. n.27. p.420.

Rebellion.

Rebellion againſt a lawful Prince is not lawfull in any caſe.
l.3. c.3. r.3. per tot. p.149.
The Primitive Chriſtians when moſt ſharply proſecuted did never rebell.
l.3. c.3. r.3. n.8. p.153.
Natural reaſon forbids rebellion.
ibid. n.11. p.156.
Of Rebellion. *l.2. c.2. r.7. n.23. p.379.*

Recreations.

Rules of conducting them.
l.4. c.1. r.2. n.32. p.473.

Of Atilius *Regulus* ſent from Carthage to Rome to get an exchange of priſoners. *l.3. c.2. r.7. n.2. p.117.*

Relative.

If the Relative be under the Commandment, then alſo the Correlative is.
l.2. c.3. r.3. n.6. p.399.
The Relative and Correlative are to be judged of by the ſame reaſon of the Law, when the reaſon equally concerns them, though only one be named.
l.3. c.6. r.3. n.29. p.421.

Religion.

In the ſubſtantial matters of religion the Laws of the Country bind out of the Dominions, but not in the ritual duties. *l.3. c.1. r.8. n.1. p.59.*
Religion is the great inſtrument of Political happineſs.
l.3. c.3. r.4. n.8. p.164.
Numa to eſtabliſh his government firſt ſettled religion. Livy. *ibid. n.9. p.165.*
They that rule religion are ſupreme to the King. *ibid. n.10. p.166.*
Such propoſitions of religion as have great influence on government. *ib.*
Religion hath influence on perſons as well as actions. *ibid. n.11. p.166.*
Ancient governments would not endure any change in religion.
ibid. n.13. p.167.
It was not in ancient times lawfull to diſpute the religion of the Country.
ibid. n.14. p.168.
Change of religion brings great trouble. *ibid.*
How far it concerns the ſupreme power to tolerate libertie of Religion.
ibid. n.15. p.169.
Kings have a Legiſlative power in matters of Religion.
l.3. c.3. r.5. n.3. p.174.
Religion and Piety cannot croſs one another. *l.3. c.5. r.8. n.3. p.378.*
The hurt Religion hath received by the mixture of erroneous philoſophy.
l.1. c.2. r.3. n.7. p.42.

Of what uſe reaſon is in religion.
*l.*1. *c.*2. *r.*3. *n.*8. *p.*42. & *p.*61.
we embrace all religion by reaſon.
*ibid. n.*24. *p.*47.
All temporal deſigns muſt be ſubordinate to religion.
*l.*4. *c.*2. *r.* *n.*4.

Renunciatio *ſui juris per pœnitentiam revocari non poteſt.*
*l.*3. *c.*2. *r.*5. *n.*19. *p.*95.

The Canon and Civil Law differ in their account of *Rapes.*
*l.*3. *c.*5. *r.*8. *n.*16. *p.*387.

Cauſes of *Repetition* are to be favoured more then cauſes of gain.
*l.*3. *c.*6. *r.*1. *n.*15. *p.*405.

Repentance.

To defer repentance proceeds from evil principles and cauſes.
*l.*2. *c.*3. *r.*16. *n.*24. *p.*531.
It is againſt the voice and intention of Scripture. *ibid. n.*25. *p.*532.
The danger of deferring repentance. *ibid. p.*533.
Delaying repentance may turn to final impenitence. *ibid. n.*26. *p.*534.
The example of the Thief upon the Croſs no argument againſt it.
*ibid. n.*27. *p.*535.
To defer repentance is not conſiſtent with any Chriſtian grace.
*ibid. n.*28. *p.*535.
All the while repentance is delayed a man is the object of the Divine Anger.
*ibid. n.*29. *p.*536.
God hath appointed no time but preſent for repentance. *ibid. n.*31. *p.*536.
Reaſons why our repentance for any one ſin ſhould not be limited to one time or act. *ibid. n.*34. *p.*538.
The meaſures of repentance.
*ibid. n.*35. *p.*538.
A man is not bound to weep for his ſin as oft as he thinks of it.
*ibid. n.*36. *p.*539.
Repentance muſt not be put off from *bodie*, and muſt continue every day in a proportionable meaſure. *ib. n.*37. *p.*539.
Repentance is a penal duty: it is an act of repentance to inflict puniſhment upon ones ſelf. *l.*3. *c.*2. *r.*2. *n.*6. *p.*61.
Of the meaſure of that ſorrow that is required in repentance.
*l.*2. *c.*3. *r.*10. *n.*8. *p.*434.
Of death-bed repentance.
*l.*2. *c.*3. *r.*16. *n.*9. *p.*523.
The doctrine of the Church of Rome concerning the time of repentance.
*ibid. n.*10. *p.*524.
Their doctrine of the time of repentance deſtroys holy life.
*ibid. n.*13. *p.*525.
Repentance muſt not be deferred after the ſin once committed.
*ibid. n.*15. *p.*526.
Repentance being deferred increaſes the ſin. *ibid. n.*17, 18. *p.*527.
He that deferrs his repentance reſiſts the grace of God, and deſpiſes his goodneſs. *ibid. n.*19. *p.*528.
He that deferrs repentance leaves the affection to ſin unmortified.
*ibid. n.*22. *p.*530.
Old men are more unfit for repentance. *ibid. n.*23. *p.*530.
The ſtate of ſickneſs unfit for repentance. *ibid.*
as he that deferrs taking phyſick if he be ſick, encreaſes his diſeaſe. *ibid.*

Syneſius denied the article of the *Reſurrection*, and ſome other, in diſſimulation, to wave a Biſhoprick.
*l.*3. *c.*2. *r.*5. *n.*18. *p.*93.

Reſervations.

Mental reſervations are not lawfull.
*l.*3. *c.*2. *r.*5. *n.*26. *p.*98.
It is lawfull to uſe them in ſome caſes to divert the cruelty of tyrants.
*ibid. n.*29. *p.*99.
Conditional reſervations are lawfull.
*ibid. n.*30. *p.*99.
When words contain a double ſenſe, the not explicating in what ſenſe I ſpeak, is no lie. *ibid. n.*32. *p.*100.

Revenge.

It is not lawfull to purſue a mans revenge, no not by the hand of Juſtice.
*l.*3. *c.*2. *r.*6. *n.*15. *p.*114.
It is lawfull to require of the Magiſtrate to puniſh him that is injurious to me, if I fear a future intolerable evil from him. *ibid. n.*16. *p.*114.

What is meant by *Rights* in the Law of Nature. *l.*2. *c.*1. *r.*10. *n.*5. *p.*270.

Wherein the Moſaick *Righteouſneſs* differs from the Chriſtian.
*l.*4. *c.*1. *r.*1. *n.*24. *p.*450.

Rites.

The rites which the primitive Church did borrow from the heathen were ſuch as had no relation to doctrine.
*l.*2. *c.*3. *r.*19. *n.*13. *p.*552.
In the ſubſtantial matters of religion the Laws of the Country bind out of the Dominions, but not in the ritual duties. *l.*3. *c.*1. *r.*8. *n.*2. *p.*50.
The uſe of Tradition in rituals.
*l.*2. *c.*3. *r.*14. *n.*19. *p.*486.

Rome, Roman.

Many of the rites of the Roman Church are derived from the cuſtoms of the Heathen. *l.*2. *c.*3. *r.*19. *n.*12. *p.*552.
Thoſe Ceremonies which the Primitive Church did borrow from the Heathen had no affinitie to Doctrine.
*ibid. n.*13. *p.*552.
The Canons of the Biſhop of Rome oblige only his own ſubjects.
*l.*3. *c.*4. *r.*16. *n.*1. *p.*298.
It is impoſſible they ſhould all oblige, becauſe of their contrariety to one another. *ibid. n.* 2.
That Biſhop is not a Law-giver to Chriſtendom, nor ſuperiour to other Biſhops. *ibid. n.*5. *p.*299.
Inſtances wherein the Roman Church does advance ſome of her own Commandments above thoſe of God.
*l.*3. *c.*4. *r.*17. *n.*16, 17, 18. *p.*306, 307.
There were two Biſhops of Rome together in the time of S. Peter.
*l.*2. *c.*3. *r.*11. *n.*12. *p.*444.
The Doctrine of the Church of Rome concerning the time of Repentance. *l.*2. *c.*3. *r.*16. *n.*10. *p.*524, 525.
The Roman Church for 600 years taught and practiſed the communicating of Infants, and the contrary for other 600 years. *l.*2. *c.*3. *r.*14. *n.*39. *p.*497.

Rule.

If there be no rule, we muſt look for examples. *l.*2. *c.*2. *r.*7. *n.*23. *p.*386.
Rule of Conſcience is never the leſs one for the great difference of caſes contradictorily determined.
*l.*1. *c.*1. *r.*5. *n.*3. *p.*33.
Of the uſe of philoſophical rules in Moral Theology. *Pref. pag.*12.

Of ſerving God for *Reward.*
*l.*2. *c.*1. *r.*4. *n.*3. *p.*248.

S.

Sabbath.

For what ends the Sabbath was inſtituted. *l.*2. *c.*2. *r.*6. *n.*43. *p.*356.
Of the Jewiſh Sabbath and the Lords day. *ibid.*
At the firſt the Primitive Chriſtians kept both the Jewiſh Sabbath and the Chriſtian. *ibid. n.*50. *p.*358.
The Lords day did not ſucceed in the place of the Sabbath. *ibid. n.*51. *p.*359.
What is moral in the fourth Commandment. *ibid.*
The Primitive Chriſtians affirm the fourth Commandment is no part of the moral Law. *ibid. n.*53. *p.*361.
What honour Chriſt and his Apoſtles did to the firſt day of the week.
*ibid. n.*56. *p.*362.
How we are to celebrate the Chriſtian Sabbath. *ibid. n.*57. *p.*363.
In the Command of the Sabbath to diſtinguiſh the Reſt from the religion of the day. *l.*2. *c.*2. *r.*6. *n.*46. *p.*357. & *n.*58. *p.*364.
The Reſt of the Sabbath was not moral, becauſe it was broken upon many occaſions. *ibid. n.*58. *p.*364.
How the Primitive Chriſtians kept the Lords day. *ibid. n.*59. *p.*364.
Whatſoever duty is in Scripture impoſed on all mankind, is either in its own nature moral or by adoption.
*ibid. n.*77. *p.*371.
The Lords day cannot be changed, becauſe it is an order Apoſtolical.
*l.*3. *c.*4. *r.*13. *n.*1. *p.*273.
Some trifling rules of the Rabbins concerning the obſerving the Sabbath &

other

Pupill.

If a Pupill in his minority make a contract with an adult to his own ruine, it is void.
l.2. c.1. r.5. n.17. p.256.
if to his advantage it is valid.
ibid. n.18. p. ead.
It is as great a ſin to teach for neceſſary doctrines the prohibitions of men, as their injunctions.
l.2. c.3. r.13. n.20. p.463.
No man can preſcribe to truth.
l.2. c.3. r.19. n.1. p.549.

Preaching.

There is an Empire in Preaching.
l.3. c.4. r.1. n.13. p.217.
The ſupreme ſecular power ought to determine what doctrines ſhall be taught the people, and what not.
l.3. c.3. r.7. n.13. p.205.

Priſon.

One may eſcape from priſon, if he can, though he ſtand condemned to die.
l.3. c.2. r.3. n.2,3. p.72.
A guilty priſoner may not ſay, Not guilty, when he is juſtly interrogated.
l.3. c.2. r.5. n.14. p.89.

The caſe of the Kingdom of *Portugal*, deſiring the conſecration of Biſhops from Rome *l.3. c.3. r.6. n.28. p.195.*

what is the *Principal*, and what the Acceſſory. *l.3. c.4. r.4. n.6. p.227.*

Privileges or Conceſſions made to the Church by the King, may by him be recalled. *ibid. r.6. n.3. p.238.*

Of the uſe of ſinging *Pſalms* in the Church. *l.3. c.4. r.20. n.11. p.329.*

All deſigns of *Profit* or *Pleaſure* muſt be ſubordinate to religion. *l.4. c.2. r.2. n.4.*

Q.

Quadrageſima or τεσσαρακοστὴ in the Council of Nice ſignifies not Lent. *l.3. c.4. r.13. n.17. p.281.*
whence that word is taken.
ibid. n.16. p.281.
Quadrageſima or τεσσαρακοστὴ uſed to ſignifie Faſts longer or ſhorter then 40 daies. *ibid. n.17. p.282.*
Divers conjectures about the reaſon of the word *Quadrageſima*.
ibid. n.18. p.282.

R.

Ratihabition.

How Ratihabition contracts guilt.
l.4. c.1. r.2. n.3. p.456.
Ratihabition does not render guilty *in Foro humano*.
l. 4. c. 1. r. 2. n. 4. p.457.

Reaſon.

A weak reaſon is to be preferred before a long prevailing cuſtome.
l.2. c.3. r.19. n.3. p.549.
Of what uſe it may be in religion.
l.1. c.2. r.3. n.8. p.42.
It is denied in religion by Papiſts and Enthuſiaſts. *ibid. n.17,18. p.45.*
Faith and it are not oppoſite.
ibid. n.20. p.46.
We embrace all religion by reaſon.
ibid. n.24. p.47.
Faith is an act of Reaſon. *ibid.*
Right reaſon is not the affirmative meaſure of things divine.
l.1. c.2. r.3. n.27. p.48. & n.31. p.50.
The reaſon of man is a right Judge if it be rightly informed.
ibid. n.30. p.50.
Right reaſon is not the ſame in all conſtitutions of affairs. *ibid.*
Right reaſon is the negative meaſure of every article of Faith.
ibid. n. 33. p. 51.
What things reaſon can diſcern to be certainly true or falſe.
l.1. c.2. r.3. n.47. p.55.
Our reaſon cannot diſcover the effects of all the power of God, but when they are revealed can conſent to them. *ibid.*
What is impoſſible or abſurd to reaſon cannot be an article of Faith.
ibid. n.48. p.55.
Miſtaken Philoſophy ought not to be urged for reaſon in queſtions of Religion. *ibid. n.51. p.57.*
How reaſon and Faith ſerve one the other. *ibid. n.52. p.57.*
It is a lawfull argument to prove a thing is againſt the word of God, becauſe it is againſt reaſon.
ibid. n.54. p.58.
Though natural reaſon cannot teach us the things of God, yet Reaſon illuminated can. *ibid. n.56. p.59.*
It is ratiocination that is fallible, not reaſon. *ibid. n.64. p.61.*
In what manner reaſon is the meaſure of religion. *ibid. n.66. p.61.*
Reaſon is not the ſame alwaies.
l.1. c.2. r.6. n.7. p.75.
Infallible reaſons are not to be required in moral actions to guide our ſelves by. *l.1. c.4. r.1. n.1. p.120.*
The ſame reaſon will not ſerve all ſtates of men. *l.1. c.4. r.2. n.34. p.142.*
Rules of prudence are not to be urged againſt reaſon and ſtrict diſcourſes.
ibid. n.40. p.143.
Reaſon is not a meet indication of the Laws of nature.
l.2. c.1. r.1. n.30. p.230. & l.2. c.3. r.13. n.28. p.467.
The uncertainty of reaſon.
l.2. c.1. r.1. n.31. p.231.
The Conſequents of natural reaſon are no indication of a moral Commandment. *l.2. c.2. r.6. n.67. p.368.*
Right reaſon cannot be the rule of war. *l.2. c.2. r.7. n.18. p.377.*
Ratio Legis non eſt Lex, ſed quod ratione conſtituitur.
l.3. c.6. r.3. n.27. p.420.

Rebellion.

Rebellion againſt a lawful Prince is not lawfull in any caſe.
l.3. c.3. r.3. per tot. p.149.
The Primitive Chriſtians when moſt ſharply proſecuted did never rebell.
l.3. c.3. r.3. n.8. p.153.
Natural reaſon forbids rebellion.
ibid. n.11. p.156.
Of Rebellion. *l.2. c.2. r.7. n.23. p.379.*

Recreations.

Rules of conducting them.
l.4. c.1. r.2. n.32. p.473.

Of Atilius *Regulus* ſent from Carthage to Rome to get an exchange of priſoners. *l.3. c.2. r.7. n.2. p.117.*

Relative.

If the Relative be under the Commandment, then alſo the Correlative is.
l.2. c.3. r.3. n.6. p.399.
The Relative and Correlative are to be judged of by the ſame reaſon of the Law, when the reaſon equally concerns them, though only one be named.
l.3. c.6. r.3. n.29. p.421.

Religion.

In the ſubſtantial matters of religion the Laws of the Country bind out of the Dominions, but not in the ritual duties. *l.3. c.1. r.8. n.2. p.59.*
Religion is the great inſtrument of Political happineſs.
l.3. c.3. r.4. n.8. p.164.
Numa to eſtabliſh his government firſt ſettled religion. Livy. *ibid. n.9. p.165.*
They that rule religion are ſupreme to the King. *ibid. n.10. p.166.*
Such propoſitions of religion as have great influence on government. *ib.*
Religion hath influence on perſons as well as actions. *ibid. n.11. p.166.*
Ancient governments would not endure any change in religion.
ibid. n.13. p.167.
It was not in ancient times lawfull to diſpute the religion of the Country.
ibid. n.14. p.168.
Change of religion brings great trouble. *ibid.*
How far it concerns the ſupreme power to tolerate libertie of Religion.
ibid. n.15. p.169.
Kings have a Legiſlative power in matters of Religion.
l.3. c.3. r.5. n.3. p.174.
Religion and Piety cannot croſs one another. *l.3. c.5. r.8. n.3. p.378.*
The hurt Religion hath received by the mixture of erroneous philoſophy.
l.1. c.2. r.3. n.7. p.42.

Of what uſe reaſon is in religion.
*l.*1. *c.*2. *r.*3. *n.*8. *p.*42. & *p.*61.
we embrace all religion by reaſon.
*ibid. n.*24. *p.*47.
All temporal deſigns muſt be ſubordinate to religion.
*l.*4. *c.*2. *r.* *n.*4.

Renunciatio *ſui juris per pœnitentiam revocari non potest.*
*l.*3. *c.*2. *r.*5. *n.*19. *p.*95.

The Canon and Civil Law differ in their account of *Rapes.*
*l.*3. *c.*5. *r.*8. *n.*16. *p.*387.

Cauſes of *Repetition* are to be favoured more then cauſes of gain.
*l.*3. *c.*6. *r.*1. *n.*15. *p.*405.

Repentance.

To defer repentance proceeds from evil principles and cauſes.
*l.*2. *c.*3. *r.*16. *n.*24. *p.*531.
It is againſt the voice and intention of Scripture. *ibid. n.*25. *p.*532.
The danger of deferring repentance.
*ibid. p.*533.
Delaying repentance may turn to final impenitence. *ibid. n.*26. *p.*534.
The example of the Thief upon the Croſs no argument againſt it.
*ibid. n.*27. *p.*535.
To defer repentance is not conſiſtent with any Chriſtian grace.
*ibid. n.*28. *p.*535.
All the while repentance is delayed a man is the object of the Divine Anger.
*ibid. n.*29. *p.*536.
God hath appointed no time but preſent for repentance. *ibid. n.*31. *p.*536.
Reaſons why our repentance for any one ſin ſhould not be limited to one time or act. *ibid. n.*34. *p.*538.
The meaſures of repentance.
*ibid. n.*35. *p.*538.
A man is not bound to weep for his ſin as oft as he thinks of it.
*ibid. n.*36. *p.*539.
Repentance muſt not be put off from *hodie*, and muſt continue every day in a proportionable meaſure. *ib. n.*37. *p.*539.
Repentance is a penal duty: it is an act of repentance to inflict puniſhment upon ones ſelf. *l.*3. *c.*2. *r.*2. *n.*6. *p.*61.
Of the meaſure of that ſorrow that is required in repentance.
*l.*2. *c.*3. *r.*10. *n.*8. *p.*434.
Of death-bed repentance.
*l.*2. *c.*3. *r.*16. *n.*9. *p.*523.
The doctrine of the Church of Rome concerning the time of repentance.
*ibid. n.*10. *p.*524.
Their doctrine of the time of repentance deſtroys holy life.
*ibid. n.*13. *p.*525.
Repentance muſt not be deferred after the ſin once committed.
*ibid. n.*15. *p.*526.
Repentance being deferred increaſes the ſin. *ibid. n.*17, 18. *p.*527.
He that deferrs his repentance reſiſts the grace of God, and deſpiſes his goodneſs. *ibid. n.*19. *p.*528.
He that deferrs repentance leaves the affection to ſin unmortified.
*ibid. n.*22. *p.*530.
Old men are more unfit for repentance. *ibid. n.*23. *p.*530.
The ſtate of ſickneſs unfit for repentance. *ibid.*
as he that deferrs taking phyſick if he be ſick, encreaſes his diſeaſe. *ibid.*

Syneſius denied the article of the *Reſurrection*, and ſome other, in diſſimulation, to wave a Biſhoprick.
*l.*3. *c.*2. *r.*5. *n.*18. *p.*93.

Reſervations.

Mental reſervations are not lawfull.
*l.*3. *c.*2. *r.*5. *n.*26. *p.*98.
It is lawfull to uſe them in ſome caſes to divert the cruelty of tyrants.
*ibid. n.*29. *p.*99.
Conditional reſervations are lawfull.
*ibid. n.*30. *p.*99.
When words contain a double ſenſe, the not explicating in what ſenſe I ſpeak, is no lie. *ibid. n.*32. *p.*100.

Revenge.

It is not lawfull to purſue a mans revenge, no not by the hand of Juſtice.
*l.*3. *c.*2. *r.*6. *n.*15. *p.*114.
It is lawfull to require of the Magiſtrate to puniſh him that is injurious to me, if I fear a future intolerable evil from him. *ibid. n.*16. *p.*114.

What is meant by *Rights* in the Law of Nature. *l.*2. *c.*1. *r.*10. *n.*5. *p.*270.

Wherein the Moſaick *Righteouſneſs* differs from the Chriſtian.
*l.*4. *c.*1. *r.*1. *n.*24. *p.*450.

Rites.

The rites which the primitive Church did borrow from the heathen were ſuch as had no relation to doctrine.
*l.*2. *c.*3. *r.*19. *n.*13. *p.*552.
In the ſubſtantial matters of religion the Laws of the Country bind out of the Dominions, but not in the ritual duties. *l.*3. *c.*1. *r.*8. *n.*2. *p.*50.
The uſe of Tradition in rituals.
*l.*2. *c.*3. *r.*14. *n.*19. *p.*486.

Rome, Roman.

Many of the rites of the Roman Church are derived from the cuſtoms of the Heathen. *l.*2. *c.*3. *r.*19. *n.*12. *p.*552.
Thoſe Ceremonies which the Primitive Church did borrow from the Heathen had no affinitie to Doctrine.
*ibid. n.*13. *p.*552.
The Canons of the Biſhop of Rome oblige only his own ſubjects.
*l.*3. *c.*4. *r.*16. *n.*1. *p.*298.
It is impoſſible they ſhould all oblige, becauſe of their contrariety to one another. *ibid. n.* 2.
That Biſhop is not a Law-giver to Chriſtendom, nor ſuperiour to other Biſhops. *ibid. n.*5. *p.*299.
Inſtances wherein the Roman Church does advance ſome of her own Commandments above thoſe of God.
*l.*3. *c.*4. *r.*17. *n.*16, 17, 18. *p.*306, 307.
There were two Biſhops of Rome together in the time of S. Peter.
*l.*2. *c.*3. *r.*11. *n.*12. *p.*444.
The Doctrine of the Church of Rome concerning the time of Repentance. *l.*2. *c.*3. *r.*16. *n.*10. *p.*524, 525.
The Roman Church for 600 years taught and practiſed the communicating of Infants, and the contrary for other 600 years. *l.*2. *c.*3. *r.*14. *n.*39. *p.*497.

Rule.

If there be no rule, we muſt look for examples. *l.*2. *c.*2. *r.*7. *n.*23. *p.*386.
Rule of Conſcience is never the leſs one for the great difference of caſes contradictorily determined.
*l.*1. *c.*1. *r.*5. *n.*3. *p.*33.
Of the uſe of philoſophical rules in Moral Theology. *Pref. pag.*12.

Of ſerving God for *Reward.*
*l.*2. *c.*1. *r.*4. *n.*3. *p.*248.

S.

Sabbath.

For what ends the Sabbath was inſtituted. *l.*2. *c.*2. *r.*6. *n.*43. *p.*356.
Of the Jewiſh Sabbath and the Lords day. *ibid.*
At the firſt the Primitive Chriſtians kept both the Jewiſh Sabbath and the Chriſtian. *ibid. n.*50. *p.*358.
The Lords day did not ſucceed in the place of the Sabbath. *ibid. n.*51. *p.*359.
What is moral in the fourth Commandment. *ibid.*
The Primitive Chriſtians affirm the fourth Commandment is no part of the moral Law. *ibid. n.*53. *p.*361.
What honour Chriſt and his Apoſtles did to the firſt day of the week.
*ibid. n.*56. *p.*362.
How we are to celebrate the Chriſtian Sabbath. *ibid. n.*57. *p.*363.
In the Command of the Sabbath to diſtinguiſh the Reſt from the religion of the day. *l.*2. *c.*2. *r.*6. *n.*46. *p.*357. & *n.*58. *p.*364.
The Reſt of the Sabbath was not moral, becauſe it was broken upon many occaſions. *ibid. n.*58. *p.*364.
How the Primitive Chriſtians kept the Lords day. *ibid. n.*59. *p.*364.
Whatſoever duty is in Scripture impoſed on all mankind, is either in its own nature moral or by adoption.
*ibid. n.*77. *p.*371.
The Lords day cannot be changed, becauſe it is an order Apoſtolical.
*l.*3. *c.*4. *r.*13. *n.*1. *p.*273.
Some trifling rules of the Rabbins concerning the obſerving the Sabbath &

other

other feast-days. *l.3.c.4.r.17.n.14.p.306.*
The Commandment of the Jewish Sabbath is not moral.
l.2. c.3. r.17. n.5. p.542.
Reasons why the Maccabees did innocently break the Sabbath, but the Sons of Eleazar could not lawfully yield to those that would force them to tast Swines flesh. *l.3. c.1. r.2. n.13. p.29.*

Sacrifices.

They could not be taught by the Law of Nature. *l.2. c.3. r.13. n.29. p.469.*
Reasons why God introduced the Law of Sacrifices. *ibid. n.30. p.470.*
Sacrifices commanded to the Jews to prevent Idolatry. *ibid.*
Sacrifices were penal duties.
l.3. c.2. r.2. n.5. p.60.

That Spiritual persons should not be exempt from *Secular* Jurisdiction.
l.2. c.2. r.6. n.67. p.368.

The Original of the sect of *Sadducees.* *l.2. c.1. r.4. n.3. p.248.*

Sacrament.

To deny the Sacrament to the unworthy is not an act of jurisdiction but charity. *l.3. c.4. r.7. n.10. p.243.*
The Apostles institutions concerning the Sacrament oblige all Christendom.
l.3. c.4. r.12. n.1. p.269.

When and in what cases it is lawfull to chuse the *safer side* in any question of choice between two actions.
l.1. c.5. r.5. n.2. p.181.

Scandal.

Of Scandal.
l.3. c.1. r.1. n.18. p.11,12. & p.233.
An humane Law that is unjust is not to be obeyed with scandal of others.
l.3. c.1. r.3. n.10. p.36.

Scripture.

Of the Interpretation of it.
l.1. c.2. r.3. n.50. p.56.
In the interpreting Scripture the ordinary way *cæteris paribus* is to be preferred before the extraordinary. *ibid.*
A moral Demonstration cannot assure the Conscience against Scripture.
l.1. c.2. r.4. n.36. p.142.
The H. Scripture is the entire guide of our Consciences.
l.2. c.1. r.9. n.17. p.269.
Whatsoever duty in Scripture is imposed on all mankind, is either in its own nature Moral or by adoption.
l.2. c.2. r.6. n.77. p.371.
The H. Scriptures contein the whole will of God. *l.2. c.3. r.14. n.2. p.473.*
The first ages of the Church did appeal to Scripture in all their questions.
ibid. n.3. p.473.
The primitive Doctors did confute all heresies from Scripture. *ib.n.6.p.476.*
They did reject all articles of faith or rules of manners that were not in, nor could be proved from Scripture.
ibid. n.9.p.478.
They did esteem the H. Scriptures a sufficient and perfect rule of faith and manners. *l.2. c.3. r.14. n.10. p.479.*
That argument, Scripture is not perfect without tradition, because tradition teaches us that Scripture is the word of God, considered and answered.
ibid. n.14. p.483.
Nothing is necessary either to be believed or done, unless it be in Scripture.
ibid. n.47. p.501.
A negative argument from Scripture is not good, if the contrary affirmative can be drawn by consequence from any part of it. *ibid. n.48. p.502.*
A negative argument from Scripture does not conclude in Qu. of fact.
ibid. n.51. p.504.
A negative argument out of Scripture consisting in a single word or expression cannot be consequently deduced to deny the mysterie signified in that word.
ibid. n.49. p.503.
A negative argument from Scripture is sufficient to prove an article not to be necessary of belief, but not sufficient to prove it to be true. *ibid. n.50. p.503.*
Whatsoever is not forbidden in Scripture directly or by consequence, is lawful: and if not commanded, not necessary.
ibid. n.53. p.504.
A *μέσον μερικὸν* negative out of Scripture is not good. *ibid. n.57. p.506.*
Scripture may lawfully be quoted to a sense besides its first meaning, if the analogy will bear it.
l.1. c.2. r.6. n.8. p.75.

Scruple.

Of Scruple of Conscience.
l.1. c.6. r.1. p.209, 210.
The right course in case of scruple is to proceed to action.
l.1. c.6. r.2. n.1. p.211.
Against a doubting Conscience a man may not act, but against a scrupulous he may. *ibid. n.2. p.211.*
Remedies against scruples of Conscience. *l.1. c.6. r.5. n.2. p.215.*
Advices to the scrupulous.
ibid. n.9. p.216.
Let the scrupulous man divert his fears upon greater sins. *ibid. n.11. p.217.*
He should avoid all excess in mortification and corporal austerities.
ibid. n.12. p.217.
What is true in the Sciences may be false in Law. *Pref. pag.12.*

Secret.

Humane Laws bind the Conscience in secret as well as in publick.
l.3. c.1. r.5. n.1. p.40.
They have power over the Conscience in inward and secret acts not directly but by accident. *ibid. n.6. p.41.*
A secret action designed in the thoughts only, is not punishable by man; proved by the sentence of Cato.
l.3. c.1. r.5. n.6. p.42.

In doubts of Law the buyer must be favoured before the *Seller.*
l.3. c.6. r.1. n.15. p.405.

Separate.

In what cases it is lawfull for the people to separate from their Bishop or Minister. *l.3. c.4. r.8. n.9. p.250.*
It must be done by the authority of the Prince. *ibid. n.11. p.251.*
Separation must not be made for a light cause. *l.3. c.4. r.9. n.6. p.257.*

Sentence.

Generale Edictum accedente Facti evidentia habet vim latæ sententiæ.
l.3. c.2. r.6. n.11. p.111.
In Moses Law if the Criminal did voluntarily submit to punishment, his sentence was gentler then if the Judge did it. *l.3. c.2. r.2. n.4,5,6. p.80.*

Service.

De offensionibus adversus dominum non est compensatio ad servitia eidem impensa. *l.3. c.3. r.2. n.24. p.147.*
The service of God does not only comprehend actions of religion.
l.3. c.3. r.6. n.7. p.181.

Of that *Shame* that attends an evil Conscience. *l.1. c.1. r.2. n.11. p.16.*

The state of *Sickness* unfit for repentance. *l.2. c.3. r.16. n.23. p.530.*

Silence.

How far a silent consent makes us partakers of the guilt of others.
l.4. c.1. r.2. n.10. p.461.
In what cases silence is a sign of consent. *ibid. n.11. p.461.*
Sometimes it is a sign of indifferencie.
ibid. n.12. p.461.
No silence is esteemed a ratihabition of a past act. *ibid. n.13. p.462.*

Of *Singing* in the Church.
l.3. c.4. r.20. n.11. p.329.

Sin.

The baseness of it.
l.1. c.1. r.2. n.11. p.17.
Of the greatness of a sin we cannot take a direct account by the measure of that horrour is observed in the Conscience of the sinner. *ibid. n.23. p. 22.*
It is not as great a sin to go against the Conscience in those dictates which flow from reason, as those that come by nature or revelation. *ibid. n.2. p.12.*
We cannot conclude that God hath pardoned our sins from our peace of Conscience. *ibid. n.25. p.24.*

A proposition that directly serves a sin is not the dictate of Conscience. *l.*1. *c.*1. *r.*3. *n.*7. *p.*30.

Bishops can directly give no Laws that properly and immediately bind the transgressors under sin. *l.*3. *c.*4. *r.*4. *p.*233.

Acts mutually contradictory may be both sins to divers persons in different circumstances. *l.*1. *c.*1. *r.*5. *n.*1. *p.*32. & *reg. eod. n.*6. *p.*33.

A sin against a sure Conscience though it be great, is not a double one. *l.*1. *c.*2. *r.*8. *n.*1. *p.*81.

Of sins that have a double guilt. *ibid. n.*2,3. *p.*81.

No man can ever be in that condition that to obey God shall become a sin to him. *l.*1. *c.*3. *r.*3. *n.*7. *p.*110.

Cautions propounded to those who counsell a lesser sin that thereby they may hinder a greater. *l.*1. *c.*5. *r.*8. *n.*4. *p.*190.

Sin is sometime in the material part of the action, sometime in the formal part. *ibid. n.*36. *p.*205.

What is that power of remitting sins given to the Church. *l.*3. *c.*4. *r.*1. *n.*13. *p.*218.

All sin is voluntary. *l.*4. *c.*1. *r.*1. *p.*437.

Neither God nor the Devil will or can force us to sin. *ibid.n.*12. *p.*443.

How far it may be lawfull or innocent to permit a sin. *l.*4. *c.*1. *r.*2. *n.*20 *p.*464.

Of the lawfulness of those trades that minister to sin. *ibid. n.*24. *p.*467.

The external act of sin is worse then the same sin in the will. *l.*4. *c.*1. *r.*3. *n.*2. *p.*482.

It is charity to a Malefactor to hinder him from committing the sin he hath resolved on. *ibid.*

To him that commits a sin, all that evil that will follow the sin, if he knows it, but not designs it, is imputed for sin. *ibid. n.*4. *p.*483.

To doe a great evil with a little malice is a greater sin, then to desire a great evil but act willingly a little one. *ib. n.*4. *p.*482.

Of the identity and diversitie of actions internal and external, and the multiplication of sins by them. *ib. n.*5. *p.*483.

Whether is the worse, he that sins willingly, or he that sins by folly and ignorance. *l.*4. *c.*1. *r.*5. *n.*16. *p.*499.

Some sins of ignorance worse then some sins of malice. *ibid. n.*18. *p.*499.

No effect which after a mans death happens, is imputable to him as a new sin. *l.*2. *c.*3. *r.*4. *n.*7. *p.*404.

Sin, whatsoever event depends upon the will of another, is no longer upon his account then he actually or habitually desires or endeavours it. *ibid. n.*8. *p.*404.

Sin is unlawfull in the mind. *l.*2. *c.*3. *r.*7. *n.*1. *p.*414.

Those sins whose evil consists wholly in relation to men with whom we converse, are not sins in the thought. *ibid. n.*2. *p.*415.

In Laws not only the contrary to the Duty, but the privative is sin. *l.*2. *c.*3. *r.*12, *n.*12. *p.*453.

In what sense we are free from sin by Christ. *l.*3. *c.*1. *r.*1. *n.*28. *p.*18.

Sin in the thoughts in some instances is punishable. *l.*3. *c.*1. *r.*5. *n.*7. *p.*43.

An accidental evil effect consequent to my duty cannot make me sin. *l.*3. *c.*2. *r.*1. *n.*66. *p.*55.

If sinners become Judges to punish themselves, they prevent the greater anger of God. *l.*3. *c.*2. *r.*2. *n.*6. *p.*60.

Simony.

The reproof of it. *l.*1. *c.*2. *r.*5. *n.*17. *p.*67. & *l.*3. *p.*293.

It is like the sin of Simon Magus, not the same sin. *l.*2. *c.*3. *r.*3. *n.*1. *p.*397.

Of the marriage of *Sisters* and Brothers. *l.*2. *c.*2. *r.*3. *n.*24. *p.*296.

Son.

A Son is bound to maintain his indigent Father though outlawed. *l.*3. *c.*5. *r.*3. *n.*2. *p.*367.

It is no disobedience of a Son to change his Fathers religion. *ib. r.*4. *n.*1. *p.*369.

The religion of the Son must not prejudice the civil rights of the Father. *ibid. n.*2. *p.*370.

A Son is not to obey his Father in things dishoneſt. *ib. r.*7. *n.*3. *p.*375.

If a Son transgress the Law by his Fathers commandment, his punishment is the less. *ibid. n.*5. *p.*375.

In what cases a Son may complain of his Father to the Judge. *ib. n.*7. *p.*376.

Sons cannot lawfully enter into a state of religion without their Fathers consent. *l.*3. *c.*5. *r.*8. *n.*3. *p.*378.

A Son cannot withdraw himself from his Fathers government, and put himself under another. *ibid. n.*5. *p.*379.

Examples of some holy men that left Monastical life because they had not their Parents leave. *ibid. n.*6. *p.*380.

Charles the Great made a Law against it. *ibid.*

That Son or Daughter sins that marries against the consent of his Father. *ibid. n.*7. *p.*381.

The ancients accounted such marriages illegitimate. *ib. n.*8.

They were forbid by the Natural and Civil and Canon Law. *ibid. n.*8,9,10. *p.*383.

A Son in reason should be left at liberty in nothing more then in marriage. *ibid. n.*13. *p.*384.

Sons and Daughters when they are of competent years and have the use of reason, may of themselves contract marriage. *l.*3. *c.*5. *r.*8. *n.*14. *p.*385.

A Son may marry at the command of his Prince against his Fathers leave. *ib.*

The marriage of Sons and Daughters is good against their Fathers consent, because the marriage of Slaves is valid in Law against the consent of their Lords. *ibid. p.*386.

A Son is never exempted from his Fathers natural power. *ib. n.*20. *p.*390.

Of his Political power the Laws prescribe the measure and bounds. *ibid.*

If the Son be a Magistrate, the Magistrate is exempted from the Fathers power, but not the Son. *ibid. n.*22. *p.*391.

If a Son enters into H. Orders it does not quit him from his duty to his Father. *ibid. n.*23. *p.*391.

The Son that is marriageable, his Father being dead, is not under the power of his mother. *ibid. n.*29. *p.*394.

A Son may refuse to marry a Virgin much inferiour to him, if his Father offer her. *ib. n.*35. *p.*397.

Of the measure of that *Sorrow* is required in repentance. *l.*2. *c.*3. *r.*10. *n.*8. *p.*434.

Justinian gave leave to any man to kill the *Souldiers* that came to plunder. *l.*3. *c.*2. *r.*6. *n.*8. *p.*109.

Socrates by *τάξις* does not mean the day of the Resurrection, but the Passion. Reasons to prove it. *l.*3. *c.*4. *r.*13. *n.*13. *p.*279.

Spirit, Spiritual.

What the Spirit is, and how it differs from the Soul of man. *l.*1. *c.*1. *r.*1. *n.*8. *p.*4.

Temporal things must not yield to every thing that is spiritual. *l.*3. *c.*3. *r.*6. *n.*13. *p.*183.

In what sense it is true that temporal things are subordinate to spiritual. *ibid. n.*15. *p.*184.

Concerning the preeminence of spiritual or temporal persons. *ib. n.*18. *p.*186.

Of the honour due to spiritual persons. *ibid. n.*18. *p.*187.

Spiritual persons have no temporal power. *ibid. n.*19. *p.*188.

The spiritual power must yield to the temporal power so long, untill it appears that to forbear longer would be to neglect a duty, and displease God, and then they must disobey only passively. *ibid. n.*28. *p.*195.

How the secular power differs from the spiritual. *l.*3. *c.*4. *r.*1. *n.*1. *p.*212.

Spiritual censures must not be inflicted for temporal causes. *ib. r.*9. *n.*10. *p.*259.

That spiritual persons should not be exempt from secular Jurisdiction. *l.*2. *c.*2. *r.*6. *n.*67. *p.*368.

Sports. Rules of conducting them. *l.*4. *c.*1. *r.*2. *n.*32. *p.*473.

Stratagems. To use them is not to lie. *l.*3. *c.*2. *r.*5. *n.*19. *p.*95.

Strangers. How far they are bound by the Laws of the Country where they are. *l.*3. *c.*1. *r.*8. *n.*7. *p.*51.

Of eating things *strangled.* *l.*2. *c.*2. *r.*2. *n.*2. *p.*281.

Subject.

Subjects sometime sin equally to those that command the sinfull action, sometime less, according to the different degrees of the authority. *l.*4. *c.*1. *r.*2. *n.*7. *p.*459.

The

The command of a Superiour excuſeth the Subject in ſmall matters, not in great. *ibid. n.8. p.459.*
Otherwiſe in the tranſgreſſion of moral precepts then temporary and ritual. *ibid. n.9. p.460.*

Of *ſubſcribing* confeſſions of Churches or acts of a Council. *l.3. c.4. r.23. n.7. p.358.*

It is better to *ſuffer* nobly, then to eſcape by a doubtfull way. *l.3. c.2. r.5. n.48. p.105.*

Συνήθεια, what it is. *l.1. c.1. r.1. n.24. p.9.*

Superſtition.
What influence it can have upon the morality of its effects. *l.4. c.1. r.7. n.6. p.513.*
Concerning it. *l.3. c.1. r.1. n.18. p.12. & l.2. c.3. r.13. n.11. p.459. & n.20. p.464. & ibid. n.26. p.466.*

Suretie.
No man can be Surety for another in obligations to capital puniſhment. *l.3. c.2. r.7. n.2. p.117.*
but in pecuniary puniſhments he may. *ibid. n.4. p.118.*

Stories. *l.1. c.2. r.3. n.2. p.40.*
Of Cain and Abel as it is in the tradition of the Eaſterlings. *l.2. c.3. r.13. n.31. p.471.*
Of others. *l.3. c.2. r.5. n.10. p.86. & l.3. p.91. & Praf. p.15.*

Syneſius uſed unlawfull arts to wave a Prelacy. *l.3. c.2. r.5. n.18. p.93.*

T.

Temporal.
TEmporal things ought not to yield to every thing that is Spiritual. *l.3. c.3. r.6. n.12. p.183.*
In what ſenſe temporal things are ſubordinate to ſpiritual. *ibid. n.15. p.184.*
Temporal things as well as ſpiritual are ſubordinate to the glory of God. *ibid. n.16. p.184.*

Of *Temptation.* *l.2. c.3. r.7. n.7. p.415.*
Extra Territorium *jus dicenti impune non paretur.* *l.3. c.1. r.8. n.1. p.49.*

Τεσσαρακοστή whence taken to ſignifie Lent. *l.3. c.4. r.13. n.16. p.281.*

Of the books of myſtical *Theology.* *l.1. c.8. r.5. n.16. p.219.*
The difficulty of moral Theology. *Pref. p.8,9.*

An Example out of the old *Teſtament* is not a ſufficient warrant for us. *l.2. c.2. r.7. n.27. p.380.*

Thief.
If a Thief make me promiſe to pay a Sum of money the next day, though he ſin againſt a natural Law in ſo doing, yet the promiſe binds me. *l.2. c.1. r.8. n.4. p.263.*
The Civil Law permits a man to kill a night-thief. *l.3. c.2. r.6. n.8. p.109.*

Thoughts.
The ſuperiour may puniſh the thoughts of the heart though they proceed not to action. *l.3. c.1. r.5. n.6. p.42.*
The Jews taught that God would not puniſh the ſin of the thoughts unleſs it were againſt the faith. *l.4. c.1. r.5. n.18. p.500.*

Tithes.
Chriſtians ought to pay Tithes. *l.2. c.3. r.20. n.8. p.556.*
The Pope did not well to diſpenſe with the Ciſtertians for paying Tithes. *l.3. c.6. r.4. n.6. p.425.*

Of *tolerating* diſobedience to Laws. *l.2. c.2. r.7. n.11,12. p.376.*

Trade.
Of the lawfullneſs of thoſe Trades that miniſter to ſin. *l.4. c.1. r.2. n.24. p.467.*
Whether the trade of Cardmakers or Dicemakers be lawful. *ib. n.25. p.468.*

Tradition.
the reaſon of it. *l.1. c.4. r.2. n.4. p.123.*
what is the uſe of Traditions. *l.2. c.3. r.14. n.14. p.483.*
Thoſe prerogatives that in the writings of the Fathers are given to Scripture under the name of Tradition, the Papiſts give to Tradition as diſtinct from and oppoſite to Scripture. *ib. n.16. p.484.*
The Primitive Chriſtians had that need of Tradition that we have not. *ibid. n.17,18. p.485.*
The uſe of Tradition in rituals. *ibid. n.19. p.486.*
Tradition uncertain, becauſe Hereticks and other evil perſons have affixed the names of Apoſtles and Apoſtolical men to many books never writ by them, which now are not eaſily to be found out and diſtinguiſhed. *ibid. n.35. p.492.*
Of the rules by which Tradition is tryed. *ib. n.39. p.495.*
Tradition cannot receive ſufficient authority either from
- The Catholic Church. *l.2. c.3. r.14. n.40,41. p.498.*
- The Doctors. *ibid. n.41. p.499.*
- Council. *ibid. n.42. p.499.*

Of Tradition. *l.3. c.4. r.21. n.1. p.351.*
It is not of uſe, unleſs there be an uninterrupted ſucceſſion from the Apoſtles. *ibid. n.3. p.351.*

Truth.
One truth cannot be againſt another. *l.1. c.2. r.3. n.49. p.56.*
No man can preſcribe to truth. *l.2. c.3. r.19. n.1. p.549.*
Of Truth. *l.3. c.2. r.5. n.1. p.82.*
Whether truth can be practiſed at all times. *ibid. n.2.*
To differ from the eternal truth is not the eſſence of a lie. *ibid. n.4. p.83.*
Every man hath a right to truth. *ibid. n.5. p.83.*
That right may be taken away by other ſuperiour rights. *ibid. n.6. p.84.*
How it is that to tell truth is an act of juſtice. *ibid. n.13. p.89.*

Tutors, their power in inflicting puniſhments. *l.3. c.2. r.6. n.7. p.109.*

Types.
That opinion of ſome, that every rite in Moſes law anſwers to ſome rite of the Chriſtian, is not ſound. *l.2. c.2. r.6. n.52. p.360.*
Types and ſhaddows were for the Old Teſtament, not the New. *l.3. c.4. r.20. n.8. p.327.*

Tyrant.
What duty is required of us toward a Tyrant. *l.2. c.2. r.7. n.41. p.386.*
When a Tyrant power threatens death to make the obedient Subject contemn the Law, the Subject ought rather to die then diſobey the Law. *l.3. c.1. r.2. n.13. p.29.*
Difference between a Tyrant and a King. *l.3. c.1. r.3. n.5. p.34. & l.3. c.3. r.1. n.1. p.130.*

Tribute.
Of Laws made concerning it. *l.3. c.2. r.8. per tot. p.124.*
Obedience is due to them, that tribute is. *ibid. n.1. p.124.*
Taxes are to be paid for Conſcience, though they are odious and of ill name. *ibid. n.3. p.125.*
Tribute muſt be impoſed by none but the ſupreme power, unleſs it be penal tribute. *l.3. c.2. r.9. n.1. p.127.*

V.

Vertue.
TO love vertue merely for its own ſake is not the inſeparable Character of a good man. *l.2. c.1. r.4. n.9. p.250.*
What it is to love Vertue for Vertues ſake. *ib. & l.4. c.2. r.2. n.7.*

Virgin.
It is not lawful for a Virgin to kill her ſelf to ſave her virginity, though there be no other way of preſerving it. *l.3. c.2. r.3. n.5. p.74. & ibid. n.16. p.78.*
Virginity is not more holy then chaſt marriage. *l.3. c.4. r.10. n.19. p.338.*

Underſtanding.
All that is above our underſtanding is not againſt it. *l.1. c.2. r.3. n.46. p.54.*
Obedience of the underſtanding in what particulars it conſiſteth. *ib. n.59. p.60.*
The underſtanding may not chuſe the leſſer truth, though it may innocently chuſe the leſſer good. *l.3. c.4. r.5. n.3. p.147.*

Of

Of the marriage of *uncles* and Nieces. *l.2. c.2. r.3. n.30. p.299.*

Of *usury*. *l.3. c.3. r.6. n.30. p.196. & l.2. c.2. r.7. n.7. p.374.*

Of the morality of those actions that are involuntary in the effect, but *voluntary* in respect of the cause. *l.4. c.1. r.4. p.489.*

A vow if it be not voluntary is no vow. *l.3. c.4. r.20. n.29. p.347.*

W.

War.

OF the measures of war by Christs law. *l.2. c.2. r.7. n.15. p.377.*

Right reason cannot be the rule of war. *ibid. n.18. p.377.*

War cannot be conducted by the Laws of nature. *ibid. n.16. p.377.*

The Law of Nations cannot be the measure of war. *ibid. n.19. p.378.*

The Christian Law hath made no particular provisions for the conduct of War under a proper title. *ib.n.20.p.378.*

The Christian religion if it were rightly embraced would prevent all War. *ibid.*

Of War { Defensive. *ibid. n.21. p.378.* Offensive. *ibid. n.22. p.379.*

Examples out of the Old Testament in matter of War are dangerous precedents. *ibid. n.31. p.382.*

A just war is not the breach of that Commandment that forbids killing. *l.3. c.2. r.1. n.18. p.59.*

In a just War it is lawfull to deceive the Enemy, but not to lie. *l.3. c.2. r.5. n.19. p.93.*

Of pledges in War. *ib.r.7. n.22. p.117.*

We should be *Watchfull* over our actions and words. *l.4. c.1. r.1. n.21. p.450.*

The use of *White* garments in religion. *l.3. c.4. r.15. n.9. p.291, 224.*

Wicked men cannot have true peace of Conscience. *l.1. c.1. r.2. n.25. p.24.*

Will.

The distinction of Gods secret and revealed Will is unreasonable. *l.1. c.2. r.3. n.38. p.52.*

God cannot have two Wills. *ibid. n.39. p.53.*

Acts of the will and understanding are good and bad from the Object. *ibid. r.9. n.4. p.95.*

Where the understanding is wrong and the Will wholly right, the action is accepted and the errour pardoned. *ibid. n.9. p.97.*

The Will may chuse the lesser good, but not the understanding the less truth. *l.1. c.4. r.5. n.3. p.147.*

A man is rendred good or bad only by his Will. *l.4. c.1. r.1. n.1. p.438.*

The Will of man is free to action. *ibid. n.2. p.438.*

The will is free in actions moral and spiritual. *ibid. n.3. p.439.*

Libertie of will in good things is a piece of weakness. *ibid. n.5. p.441.*

To grant libertie of Will does not disparage the grace of God. *ib.n.6.p.441.*

The Will is in every action good or bad. *ibid. n.7,8. p.442.*

The other faculties of the Soul are not changed by good or bad objects. *ibid. n.8. p.442.*

The material part of the sin is in them, the formal only in the will. *ib.n.9.p.442.*

All acts that pass without any consent of the Will are indifferent. *ibid. n.17. p.446.*

No action of the Will is indifferent. *ibid. n.18. p.446.*

The Will hath six steps or degrees of volition. *l.4. c.1. r.3. n.1. p.480.*

The first inclination of the Will is not sinfull. *ibid.*

All the moralitie of any action depends wholly on the Will, and is seated in the inner man. *ibid. n.2. p.481.*

The external act of sin is more then the same sin in the Will. *ibid. p.482.*

All sin is in the Will, and is there completed. *ibid. n.12. p.486.*

In what manner execution of the intention adds to the crime. *ibid. n.13. p.487.*

Wills or Testaments.

In Wills or Testaments there arising a doubt, the lesser burden is to be laid upon the Executor. *l.3. c.6. r.1. n.14. p.404.*

The Heir is to be favoured against the Legatees, unless God and Religion be the Legatee. *ibid. n.15. p.405.*

Wine.

The Heathens used to compleat their Covenants with drinking blood, or Wine instead of it. *l.2. c.3. r.9. n.31. p.431.*

The Encratites and Manichees sinned in abstaining from the use of Wine. *l.2. c.3. r.13. n.23. p.465.*

But the Rechabites did not, and why. *ibid. n.14. p.460.*

In what cases the sentence of a good and *Wise* man may determine the choice. *l.1. c.4. r.15. n.1. p.174. & p.386.*

Women, Wife.

It is not well for women to baptize. *l.2. c.1. r.7. n.3. p.261.*

Of women wearing mens cloths. *l.3. c.1. r.1. n.18. p.12.*

S. Pelagia did wear mans cloths to avoid temptation. *ibid.*

Women are to be admitted to the Sacrament. *l.3. c.4. r.12. n.6. p.270.*

Scriptura loquens in Masculino, procedit etiam in Fœminino. *ibid.*

In Scripture a betrothed woman is called wife before marriage, and her falshood to her Spouse hath the same punishment as adultery. *l.3.c.5.r.8.n.16.p.387.*

The Wife sinning is excused by the Hubands command in small matters, not in greater. *ibid.*

Words.

Of their signification in Laws. *l.3. c.6. r.1. n.6, 7, 8, 9. p.400, 401.*

That is the meaning of the words of the Law, that does the work of the Law. *ibid. n.11. p.402.*

How far the words of a Law may be drawn to prove a sin forbidden to be great or small. *l.3. c.1. r.1. n.20. p.14.*

We should be watchfull over our actions and words. *l.4. c.1. r.1. n.21. p.450.*

Worship.

The vanity of that distinction of Relative and Terminative worship. *l.2. c.2. r.6. n.27. p.341.*

Will-worship. *l.2.c.3.r.13.n.7.p.457.*

God is to be worshipped by nothing but what himself appointeth. *ibid.*

There can be no Will-worship in acts internal of the Soul. *ib. n.30. p.470.*

He that kills a child in the *Wombe* is guilty of murther. *l.4. c.1. r.3. n.14. p.488.*

Y.

Young men should not be permitted to game. *l.4. c.1. r.2. n.38. p.479.*

Z.

Of the Jewish *Zelots*. *l.3. c.2. r.6. n.2. p.107.*

FINIS.

Errata sic corrige.

Vol. I.

PAge 11. *l.* 41. *read* μὲν ὦ
137. *l.* 26. *r.* a few Fiſhermen
145. *l.* 33. *r.* to be fit
156. *l.* 13. *r.* ſtronger argument
196. *l.* 44. *r.* yet then they
216. *l.* 24. *r.* every accident
220. *l.* 4. *dele* and Humane.
227. *l.* 43. *r.* indeed
228. *l.* 5. *r.* this than any
241. *l.* 8. *r.* particulars, made relative
244. *l.* 19. *r.* which is ſerv'd by juſtice.
268. *l.* 24. *r.* ſo wholy
290. *l.* 38. *r.* yet the arg.
291. *l.* 13. *r.* Nations
313. *l.* 20. *r.* no more: by
314. *l.* 4. *r.* too near
l. 24. *r.* before) it was
319. *l.* 16. *r.* any foot-ſteps
323. *l.* 40. *r.* is to be
334. *l.* 30 & 35. *r.* καλαζῆναι
336. *l.* 25. *after* becauſe, *dele* yet
339. *l.* 34. *r.* a degree

Pag.
344. *l.* 8. *r.* branle
345. *l.* 5. *r.* idol
348. *l.* 32. *r.* γνησίας
353. *l.* 23. *r. Prunetana*
359. *l.* 13. *r.* ἀνάμνησια
369. *l.* 23. *r.* poſture
377. *l.* 44. *r.* heard, poſſibly there
l. 45. *r.* againſt reaſon, it
383. *l.* 13. *r.* Preſidents
401. *l.* 38. *r.* be not
413. *l.* 35. *after* obſerve, *dele* but
417. *l.* 42. *r.* morally
421. *l.* 13. *r.* beginning form'd with
422. *l.* 6. *r. traditionis*
l. 30. *r.* παράδοσιν
423. *l.* 45. *r.* Apoſtles miniſtery
429. *l.* 15. *r.* taken notice
428. *l.* 22. *r.* life iſſuing
433. *l.* 32. *after* appendage, *dele* and
437. *l.* 43. *r.* eaſe of rigour
444. *l.* 29. *dele*, But I ſhall give an account of that inquiry in ſome of the following pages.
449. *l.* 39. *r.* they oblige

Pag.
454. *l.* 28. *r.* in it, but
502. *l.* 13. *r.* S. Gregory
503. *l.* 37. *r.* is not an adequate
548. *l.* 35. *r.* Chriſt are or ought

Vol. II.

Pag. 92. *l.* 20. *r.* by publiſhing
94. *l.* 15. *r.* as in parlies
96. *l.* 6. *r.* and they who may
97. *l.* 9. *after* but not, *dele* to
99. *l.* 17. *r.* an uſual
131. *l.* 31. *r. Ne reſpublica*
139. *l.* ult. *r. Seres*
145. *l.* 42. *r. fuerant*
155. *l.* 42. *r. Inviolabiliter*
230. *l.* 20. *r.* 10 talents
254. *l.* 28. *r.* that 3 it muſt
256. *l.* 6. *r.* are to be
294. *l.* 40. *r.* enter into
359. *l.* 33. *r. non amare* —— *inſania*
368. *l.* 27. *r.* ἀρίστους
438. *l.* 12. *r.* our own
490. *l.* 34. *r.* (as *Pyrrho* did) he ſee
513. *l.* *r.* βάλλοντες

A CATALOGUE of ſome Books Printed for *Richard Royſton* at the Angel in Ivy-lane, *London*.

Books and Sermons written by J. Taylor D. D.

ENιαυτὸς, A Courſe of Sermons for all the Sundays of the year; together with a diſcourſe of the Divine Inſtitution, Neceſſity, Sacredneſs and Separation of the Office Miniſterial, in *fol.*

2. The Hiſtory of the Life and Death of the Ever-bleſſed Jeſus Chriſt, the third Edition in *fol.*

3. The Rule and Exerciſes of holy living, in 12.

4. The Rule and Exerciſes of holy dying, in 12.

5. The Golden Grove, or A Manual of daily Prayers, fitted to the daies of the week, together with a ſhort Method of Peace and Holineſs, in 12.

6. A Collection of Polemical and Moral diſcourſes, in *fol.* newly reprinted.

7. A Diſcourſe of the Nature, Offices & Meaſure of Friendſhip, in 12. new.

8. A Collection of Offices or forms of Prayer fitted to the needs of all Chriſtians, taken out of the Scriptures and Ancient Liturgies of ſeveral Churches, eſpecially the Greek, together with the Pſalter or Pſalms of *David* after the Kings Tranſlation, in a large *octavo*, newly publiſhed.

9. *Ductor Dubitantium*, or the Rule of Conſcience, *fol.* in two *volumes*.

10. The Doctrine and Practice of Repentance, deſcribing the neceſſities of a Strict, a Holy and a Chriſtian Life: Serving as a neceſſary Supplement unto the Rule of Conſcience.

Books written by the late Reverend Dr. Henry Hammond.

A Paraphraſe and Annotations upon all the Books of the *New Teſtament*, by *Hen. Hammond* D. D. in *fol.* the ſecond Edition enlarged.

2. A Paraphraſe and Annotations upon the Books of the *Pſalms*, briefly explaining the Difficulties thereof, by *Hen. Hammond* D. D. *fol.* new.

3. The *Practical Catechiſme*, with other Engliſh Treatiſes, in two volumes in 4.

4. *Diſſertationes quatuor quibus Epiſcopatus Jura ex S. Scripturis & Primæva Antiquitate adſtruuntur, contra ſententiam* D. Blondelli *& aliorum* in 4.

5. A Letter of Reſolution in ſix Queries, in 12.

6. Of Schiſme. A defence of the Church of *England* againſt the exceptions of the Romaniſts, in 12.

7. Of Fundamentals in a notion referring to practice, in 12.

8. *Parænefis*, or a ſeaſonable exhortation to all true ſons of the Church of *England*, in 12.

9. A Collection of ſeveral Replies and Vindications publiſhed of late, moſt of them in defence of the Church of *England*, now put together in four volumes. Newly publiſhed, in 4.

10. The Diſpatcher Diſpatch'd, in Anſwer to a Roman Catholick Book intituled *Schiſm Diſpatch'd*, in 4. new.

11. A Review of the Paraphraſe and Annotations on all the Books of the *New Teſtament*, with ſome additions and alterations, in 8.

12. Some profitable directions both for Prieſt & people, in two Sermons, in 8. new.